

5
2/25/00
pm

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JIBRIL KOITA, et al.

Petitioners

v.

JANET RENO,

Respondent

:
:
:
:
:
:
:
:

No. 1:CV-00-0070

Pls. Belisario
(Judge Caldwell)

FILED
HARRISBURG, PA

FEB 24 2000

MARY E. D'ANDREA, CLERK
Per *[Signature]* Deputy Clerk

EXHIBITS TO JANET RENO'S RESPONSE TO
PETITION FOR WRIT OF HABEAS CORPUS

DAVID M. BARASCH
United States Attorney
MARY CATHERINE FRYE
Chief, Civil Division
Assistant U.S. Attorney
P.O. Box 11754
Harrisburg, PA 17108-1754
(717) 221-4482
Fax: (717) 221-2246

COPY

U.S. Department of Justice

Immigration and Naturalization Service

Additional Charges of Inadmissibility/Deportability

- In: ☒ Removal proceedings under section 240 of the Immigration and Nationality Act
☐ Deportation proceedings commenced prior to April 1, 1997 under former section 242 of the Immigration and Nationality Act

In the Matter of:Alien/Respondent: KOITA, JibrilFile No.: A74 190 504 Address: York County Prison, 3400 Concord Road, York, PA 17402


There is lodged against you the additional charge that you are subject to being taken into custody and deported or removed from the United States pursuant to the following provision(s) of law:

Section 237(a)(2)(A)(ii) of the Immigration and Nationality Act, as amended ("the Act"), as an alien who has been convicted of two or more crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor and regardless of whether the convictions were in a single trial.

In support of the additional charges above there is submitted the following factual allegation(s) ☒ in addition to ☐ in lieu of the allegations set forth in the original charging document

- A 6. You were convicted of Criminal Possession of Stolen Property in the Fifth Degree, in violation of New York Penal Law section 165.40, on January 9, 1995 in the Criminal Court of the City of New York, CD #15563.
- A 7. You were convicted of Conspiracy to Violate 18 USC section 1344, Bank Fraud, on February 24, 1999 in the United States District Court, District of Delaware, Case Number 1:98CR00107-001.

Dated: 8/31/99


 (Signature of Service Counsel)

RECEIVED
 IMMIGRATION AND NATURALIZATION SERVICE
 YORK COUNTY PRISON
 YORK, PA 17402

1 AUG 31 11 41 10

RECEIVED
 IMMIGRATION AND NATURALIZATION SERVICE
 YORK COUNTY PRISON
 YORK, PA 17402

Additional allegations (continued):

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this Notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the charging document and that you are inadmissible or deportable on the charges contained in the charging document. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the INS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the INS.

Certificate of Service

This charging document was served on the respondent by me on 8/31/99, in the following manner and in compliance with section 239(a)(1)(F) of the Act:

☐ in person ☐ by certified mail, return receipt requested ☒ by regular mail
to: Sibila Korta, Snyder County Prison, 600 Old Colony Road, Selinsgrove, PA 17870
(Alien's address)

☐ The alien was provided oral notice in the _____ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of respondent if personally served)

W. A. B. A. District Counsel
(Signature and title of officer)

COPY

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
YORK, PENNSYLVANIA

In the matter of)

KOITA, Jibril)

Respondent)

IN REMOVAL PROCEEDINGS

File Number

A74 190 504

IMMIGRATION AND NATURALIZATION SERVICE'S
NOTICE OF INTENT TO OFFER EVIDENCE

Pursuant to OIJ Local Operating Procedure 3(c) and 5(b) (submission of evidentiary material), the United States Immigration and Naturalization Service herewith submits for filing the attached documentation (listed below). The Service may seek to offer this material at an Individual Calendar hearing in the above-captioned proceeding.

- A Record of Deportable Alien (Form I-213)
- B Record of Conviction in the Criminal Court of New York, New York County; Docket No. 95N002469 (Criminal Possession Stolen Property 5th Degree)
- C Record of Conviction in the U.S. District Court, District of Delaware; Case No. 1:98CR00107-001 (Conspiracy)
- D Indictment in the U.S. District Court, District of Delaware; Criminal Action No. 98-107
- E Pre-sentence Investigation Report
- F "Rap" Sheet
- G Application to Register Permanent Residence or Adjust Status (Form I-485)

Respectfully submitted,

Jeffrey T. Bulmer
Jeffrey T. Bulmer
Assistant District Counsel
INS/Philadelphia District
York

Dated: July 2, 1999

CERTIFICATE OF SERVICE

CASE NUMBER: A74 190 504

I HEREBY CERTIFY that, on Friday, July 02, 1999, I caused to be served, the Service's Notice of Intent to Offer Evidence:

X by placing a true copy thereof in a sealed envelope, with postage thereon fully prepaid and causing the same to be mailed by first class mail to the person named at the address set forth below.

___ by causing to be personally delivered a true copy thereof to the person named at the address set forth below.

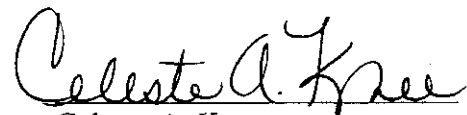
___ by FEDERAL EXPRESS: AIRBORNE EXPRESS to the person named at the address set forth below.

___ by telefaxing with acknowledgment of receipt to the person named at the address set forth below.

Jibril Koita
INS Detainee
Snyder County Prison
600 Old Colony Road
Selinsgrove, Pennsylvania 17870

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

2-Jul-99



Celeste A. Knee
Legal Assistant
INS/Philadelphia District
York

United States of America

DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
Philadelphia, PA

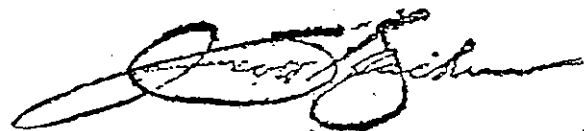
July 2, 1999

CERTIFICATION

BY VIRTUE OF the authority vested in me by Title 8, Code of Federal Regulations, Part 103
a regulation issued by the Attorney General pursuant to Section 103 of the Immigration and
Nationality Act,

I HEREBY CERTIFY that the annexed documents are originals, or copies thereof, from the
records of the said Immigration and Naturalization Service, Department of Justice, relating to

File No. A74 190 504, of which the Attorney General
is the legal custodian by virtue of Section 103 of the Immigration and Nationality Act.



J. Scott Blackman
District Director

Immigration and Naturalization Service
1600 Callowhill Street

U.S. Department of Justice

Immigration and Naturalization Service

Record of Deportable/Inadmissible Alien

Family Name (CAPS) KOITA, Jabril		First	Middle	Sex Male	Hair BLACK	Eyes BROWN	Complexion MEDIUM
Country of Citizenship GAMBIA	Passport Number and Country of Issue		File Number 074190504	Height 57"	Weight 150 Lbs	Occupation <i>Not reported</i> <i>See #1</i>	
U.S. Address BOP ALLENWOOD LOW FCI LSCI-ALLENWOOD PO BOX 1500 WHITE DEER PA 17887				Scars and Marks None Visible			
Date, Place, Time, and Manner of Last Entry 11/1/1989 NEW YORK, NY		Passenger Boarded at		F.B.I Number 716957XA8		<input checked="" type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Married <input type="checkbox"/> Widow(er) <input type="checkbox"/> Separated	
Number, Street, City, Province (State) and Country of Permanent Residence 2303 PENTLAND DRIVE #401 BALTIMORE MD US 21234				Method of Location/Apprehension NA			
Date of Birth 3/20/1967	Date of Action 6/1/1999	Location Code ALLENWOOD PA		(At/Near) ALLENWOOD PA		Date & Hour 6/1/1999	
City, Province (State) and Country of Birth GAMBIA		AR <input type="checkbox"/>	Form (Type & No.) <input type="checkbox"/> Lifted <input type="checkbox"/> Not Lifted	By BUNKS, David			
NIV Issuing Post and NIV Number		Social Security Account Name		Status at Entry Non-Immigrant		Status When Found I - Incarcerated	
Date Visa Issued	Social Security Number 091-80-1626			Length of Time Illegally in U.S.			
Immigration Record			Criminal Record SEE NARRATIVE				
Name, Address, and Nationality of Spouse (Maiden name, if Appropriate)				Number & Nationality of Minor Children 1 Child US			
Father's Name, Nationality, and Address, if Known KOITA, Souleiman ; GAMBIA			Mother's Present and Maiden Names, Nationality, and Address, if Known KOITA, Aminq ; Batichily ; GAMBIA				
Monies Due/Property in U.S. Not in Immediate Possession		Fingerprinted <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	INS Systems Checks CIS DACS SENTRY NCIC		Charge Code Word(s)		
Name and Address of (Last) (Current) U.S. Employer		Type of Employment	Salary \$	hr.	Employed From: To:		
Narrative (Outline particulars under which alien located/apprehended. Include details, not shown above, re: time, place, manner of last entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior). BOP# 33373037 AKA: WURRIE, Momodou; KOITA, Jieril 1) CONVICTION: 2/23/1999 DELAWARE, FRAUD SUBJECT IS NOT A CITIZEN OR NATIONAL OF THE UNITED STATES; SUBJECT IS A NATIVE AND CITIZEN OF GAMBIA; SUBJECT HAS FAMILY IN THE US; SUBJECT HAS NO ATTORNEY, US MILITARY SERVICE, OR PENDING INS BENEFITS; SUBJECT WAS ISSUED A NOTICE OF INTENT TO RESCIND HIS LPR STATUS DUE TO HIS INELIGIBILITY FOR LPR STATUS RESULTING FROM PRIOR CRIMINAL CONVICTIONS AND THE OMISSION AND MISREPRESENTATION OF FACTS ON HIS I-485. APPLICATION FOR ADJUSTMENT OF STATUS TO LPR:							
Alien has been advised of communication privileges		6/1/99 DBB (Date/Initials)		BUNKS, David (Signature and Title of INS Official)		IHP Officer	

Distribution:

Received (Subject and Documents) (Report of Interview)

Officer: BUNKS, David IHP Officer

on: 6/1/1999 at 10:11:36 AM (time)

Disposition: Request NOTICE TO APPEAR

Examining Officer: Susan L. Miller

REC-10

APR 28 1999

ALLEN, JAMES

CRIMINAL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORKCERTIFICATE OF DISPOSITION
NUMBER: 15563THE PEOPLE OF THE STATE OF NEW YORK
VS

KIDTA JIBRIL

03/20/67

DEFENDANT

DATE OF BIRTH

27-24 SEXTON PLACE

006855074N

ADDRESS

NYSID NUMBER

BRONX

NY

01/08/95

CITY

STATE ZIP

DATE OF ARREST/ISSUE

DOCKET NUMBER: 95N002469

SUMMONS NO:

165.45 170.05 190.25

ARRAIGNMENT CHARGES

CASE DISPOSITION INFORMATION:

DATE	COURT ACTION	JUDGE	PART
01/09/95	PGSI PROB=3Y PG 165.40	BENITEZ, P	APAR3
10/16/95	WD	ELKINS, L	AP1
04/30/97	ROW	FEINMAN, P	AP1
06/30/97	SENT. <i>Continued</i>	WARD, L	AP17

I HEREBY CERTIFY THAT THIS IS A TRUE EXCERPT OF THE RECORD ON FILE IN
THIS COURT.*C. Amster SCC*

COURT OFFICIAL SIGNATURE AND SEAL

04/15/99

DATE

FEE: NONE

(CAUTION: THIS DOCUMENT IS NOT OFFICIAL UNLESS EMBOSSED WITH THE COURT
SEAL OVER THE SIGNATURE OF THE COURT OFFICIAL.)



CRIMINAL COURT OF THE CITY OF NEW YORK
100 CENTRE STREET
NEW YORK, NEW YORK 10013

CENTRAL CLERKS OFFICE
ROOM 150

DATE: 4-15-99

NAME: Koita, Tieril

AKA: _____

DOCKET#: 97C019798

DATE OF ARREST: 12-29-97

ORIGINAL CHARGE: 190.25PS, 240.50PS, 240.20PS

FINAL CHARGE: 240.20PS - Disorderly Conduct

NYSID#: 6855074N

DATE OF DISPOSITION: 6-30-98

DISPOSITION: Pled guilty to 240.20PS - A Violation

SENTENCE: Conditional Discharge

JUDGE: J. Sullivan

BY

C. Amater
Se Count Clerk

REMARKS OR ADDITIONAL INFORMATION:

RECEIVED

APR 19 1999

ALLENWOOD INS

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
ALLENWOOD, PA

ATTESTATION TO CERTIFICATION OF
JUDGMENT AND CONVICTION RECORD(S)

In the Matter of:

Jibril KOITA

Alien Number: A74 190 504 BOP: 33373-037

I certify that I have reviewed the official Bureau of Prisons inmate record file pertaining to the above listed person and that this is an authentic copy of the certified Judgment and conviction Record(s) contained in that file.

April 14, 1999
Date


Signature

MATTHEW A STERMAN
Type or Print Name

AGENT
Title

Attachment(s)

AO 245B (Rev. 3/95) Sheet 1 - Judgment in a Criminal Case

United States District Court

District of Delaware

UNITED STATES OF AMERICA
v.

Jibril Koita

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 1:98CR00107-001

Daniel A. Durkin, Esquire

Defendant's Attorney

THE DEFENDANT:☒ pleaded guilty to count(s) 2 of the indictment.☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.**Title & Section****Nature of Offense****Date Offense
Concluded****Count
Number(s)**

18 U.S.C. § 371

Conspiracy

03/10/1998

2

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____☒ Count(s) 1 and 3 of the indictment are dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 091-80-1626Defendant's Date of Birth: 03/20/1967Defendant's USM No.: 33373-037

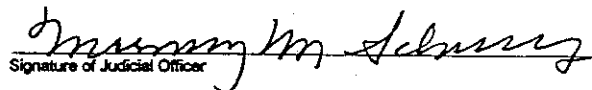
Defendant's Residence Address:

3940 Bronx Blvd.BronxNY10461

Defendant's Mailing Address:

3940 Bronx Blvd.BronxNY1046102/23/1999

Date of Imposition of Judgment



Signature of Judicial Officer

Honorable Murray M. Schwartz

United States District Judge

Name & Title of Judicial Officer

2/24/99

Date

AO 245B (Rev. 3/95) Sheet 2 - Imprisonment

Judgment-Page 2 of 6

DEFENDANT: Jibril Koita
CASE NUMBER: 1:98CR00107-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 6 month(s).

☐ The court makes the following recommendations to the Bureau of Prisons:

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ a.m./p.m. on _____.

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ before 2 p.m. on 03/16/1999.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on 3/16/99 to ACF
at RA, with a certified copy of this judgment.

By R. Heyland
Deputy U.S. Marshal

DEFENDANT: Jibril Koita
CASE NUMBER: 1:98CR00107-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 year(s)

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

☒ The defendant shall not possess a firearm as defined in 18 U.S.C. § 921. (Check, if applicable.)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page (if indicated below).

See Special Conditions of Supervision - Sheet 3.01

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

AO 245B (Rev. 3/95) Sheet 3 - Supervised Re

DEFENDANT: Jibril Koita
CASE NUMBER: 1:98CR00107-001

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall not incur new credit charges or open additional lines without the approval of the probation officer unless the defendant is in compliance with the installment payment schedule.

Should the defendant be deported from the United States and attempt to reenter the United States illegally during the term of his supervised release, he will be considered to be in violation of the conditions of supervised release.

DEFENDANT: Jibril Koita
CASE NUMBER: 1:98CR00107-001

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 100.00	\$	\$

☐ If applicable, restitution amount ordered pursuant to plea agreement \$ _____

FINE

The above fine includes costs of incarceration and/or supervision in the amount of \$ _____.

The defendant shall pay interest on any fine of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

RESTITUTION

- ☐ The determination of restitution is deferred in a case brought under Chapters 109A, 110, 110A and 113A of Title 18 for offenses committed on or after 09/13/1994, until _____. An Amended Judgment in a Criminal Case will be entered after such determination.

- ☐ The defendant shall make restitution to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

<u>Name of Payee</u>	<u>** Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
----------------------	------------------------------------	--	--

Totals: \$ _____ \$ _____

DEFENDANT: Jibril Koita

CASE NUMBER: 1:98CR00107-001

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

- A ☒ in full immediately; or
- B ☐ \$ _____ immediately, balance due (in accordance with C, D, or E); or
- C ☐ not later than _____; or
- D ☐ in installments to commence _____ day(s) after the date of this judgment. In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. probation officer shall pursue collection of the amount due, and shall request the court to establish a payment schedule if appropriate; or
- E ☐ in _____ (e.g. equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ year(s) to commence _____ day(s) after the date of this judgment.

The National Fine Center will credit the defendant for all payments previously made toward any criminal monetary penalties imposed.

Special instructions regarding the payment of criminal monetary penalties:

Criminal monetary penalty payments, with the exception of restitution, should be made payable to Clerk, U.S. District Court. Any restitution ordered is to be made payable to the victim, and collected by the U.S. Probation Office.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments are to be made to the United States Courts National Fine Center, Administrative Office of the United States Courts, Washington, DC 20544, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. If the National Fine Center is not operating in this district, all criminal monetary penalty payments are to be made

DEFENDANT: Jibril Koita
CASE NUMBER: 1:98CR00107-001

STATEMENT OF REASONS

☒ The court adopts the factual findings and guideline application in the presentence report.

OR

☐ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 9

Criminal History Category: II

Imprisonment Range: 6 to 12 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 1,000.00 to \$ 10,000.00

Probation Range: 1 to 5 years

☒ Fine waived or below the guideline range because of inability to pay.

Total Amount of Restitution: \$ N/A

- ☐ Restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims, pursuant to 18 U.S.C. § 3663(d).
- ☐ For offenses that require the total amount of loss to be stated, pursuant to Chapters 109A, 110, 110A, and 113A of Title 18, restitution is not ordered because the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of a restitution order in the foreseeable future under any reasonable schedule of payments.
- ☐ Partial restitution is ordered for the following reason(s):

☒ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

☐ The sentence departs from the guideline range:

☐ upon motion of the government, as a result of defendant's substantial assistance.

☐ for the following specific reason(s):

CERTIFIED: 2/24/99

AS A TRUE COPY:

ATTEST:

PETER T. DALLEO, CLERK

BY Donna M. Seninger
Deputy Clerk

J.S. Department of Justice
Immigration and Naturalization Service

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act

File No: A74 190 504

In the Matter of:

Respondent: KOITA, Jibril BOP#33373037 PRD 6/4/99

LSCI ALLENWOOD PO BOX 1500
WHITE DEER

PA 17887

570-547-1990

(Number, street, city, state and ZIP code)

(Area code and phone number)

- ☐ 1. You are an arriving alien.
☐ 2. You are an alien present in the United States who has not been admitted or paroled.
☒ 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

- A You are not a citizen or national of the United states;
A You are a native of Gambia and a citizen of Gambia;
A You were admitted to the United States at New York, NY on or about November 1989 as a non-immigrant;
A Your status was adjusted to that of a lawful permanent resident as of June 14, 1995 at New York, NY;

SEE CONTINUATION SHEET

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

- D Section 237(a)(1)(A) of the Immigration and Nationality Act (Act), as amended, in that at the time of entry or of adjustment of status, you were within one or more of the classes of aliens inadmissible by the law existing at such time, to wit: aliens who seek to procure, or have sought to procure, or who have procured a visa, other documentation, or admission into the United States, or other benefit provided under the Act, by fraud or by willfully misrepresenting a material fact, under Section 212(a)(6)(C)(i) of the Act.

- ☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution.
☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: EOIR
IMMIGRATION COURT, 3434 CONCORDE RD, YORK PA 17402

on TO BE SET at TO BE SET to show why you should not be removed from the United States based on the
(Date) (Time)
charge(s) set forth above.

Robert Culley, IHP Director
(Signature and Title of Issuing Officer)

Allenwood, PA
(City and State)

Date: 6/1/99

See reverse for important information

U.S. Department of Justice
Immigration and Naturalization Service

Continuation Page for Form I-862

Alien's Name KOITA, Jibril PRD 6/4/99	BOP#33373037	File Number A74 190 504	Date JUN 02 1999
---	--------------	----------------------------	---------------------

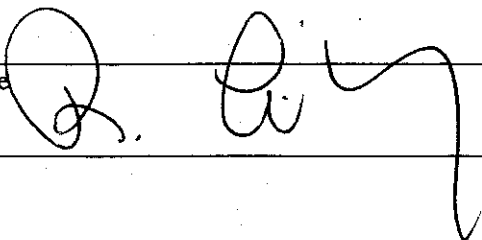
A 5a. On June 7, 1995, you filed form I-485, an application to adjust to permanent residence under section 245 of the Immigration and Nationality Act, as amended, based upon section 203(c), the Diversity Immigrant Visa Program.

A 5b. On that form I-485, you answered that you had been arrested only for not paying a subway fare, in New York, in 1990. You signed that form I-485 on April 1, 1995, certifying under penalty of perjury under the laws of the United States, that the application was all true and correct.

5c. You were also arrested in Yonkers, NY. on December 5, 1994 for petty larceny 4, in New York on January 8, 1995 for grand larceny 4, criminal possession of stolen property 4, criminal impersonation of another person, and forgery 3rd, in New York on January 31, 1995 for grand larceny, forgery deed will codial at, possession of forged instruments 2, and criminal possession of stolen property 4, value over \$1000.

*neither admit
nor deny*

Signature


Title
Robert Culley, IHP Director

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

OMB #1105-006

Notice of Appeal to the Board of Immigration
Appeals of Decision of Immigration Judge

1.

List Name(s) and "A" Number(s) of all Applicant(s)/Respondent(s):

Gladwin Wilson

A41-928-716

For Official Use Only

! WARNING TO ALL APPLICANT(S)/RESPONDENT(S): Names and
• "A" Numbers of everyone appealing the order must be written in Item #1.

2.

Applicant/Respondent is currently



DETAINED



NOT DETAINED.

3.

Appeal from the Immigration Judge's decision dated 10/15/99

4.

State in detail the reason(s) for this appeal. You are not limited to the space provided below; use more sheets of paper if necessary. Write your name(s) and "A" number(s) on every sheet.

! WARNING : The failure to specify the factual or legal basis for the appeal may lead to summary dismissal without further notice unless you give specific details in a timely, separate written brief or statement filed with the Board.

I. The immigration judge misapplied the law when he found that the respondent did not meet the standard of the CAT when the court did not consider respondent's statement and evidence in the record. See Attached

II. The immigration judge made an error as to the facts when the court found the alien credible but failed to take into account his affidavit, and testimony together. Specifically, the affidavit rebutted the conclusion of the Court that the alien was not affiliated with a political organization back in his home country. See Attached

Staple Check or Money Order Here.
Include your name(s) and "A" number(s)

(Attach more sheets if necessary)

(Form continues on back)

5. I ☒ do desire oral argument before the Board of Immigration Appeals.
☐ do not

6. I ☒ will file a separate written brief or statement in addition to the "Reason(s) for Appeal" written above or accompanying this form.
☐ will not

WARNING: Your appeal may be summarily dismissed if you indicate in Item #6 that you will file a separate written brief or statement and within the time set for filing, you fail to file the brief or statement and do not reasonably explain such failure.



7. ☒ [Signature]
 Signature of Person Appealing
 (or attorney or representative)

November 11, 1999
 Date

8. Mailing Address of Applicant(s)/Respondent(s)

Gladwin Wilson
 (Name)

C/O 205 Floral Vale Blvd.
 (Street Address)

(Apartment or Room Number)

Yardley PA 19067
 (City, State, Zip Code)

9. Mailing Address of Attorney or Representative

Frank Billings Lindner
 (Name)

205 Floral Valle Blvd.
 (Street Address)

(Suite or Room Number)

Yardley PA 19067
 (City, State, Zip Code)

WARNING: An attorney or representative will not be recognized as counsel on appeal and will not receive documents or correspondence in connection with the appeal, unless he/she submits a completed Form EOIR-27.

CERTIFICATE OF SERVICE (Must Be Completed)

10. I Frank Lindner mailed or delivered a copy of this notice of appeal
 (Name)

on 11/12/99 to INS Trial Attorney
 (Date) (Opposing Party)

at 3400 Concord Rd. York PA 17402
 (Address of Opposing Party)



☒ [Signature]
 Signature of Person Appealing
 (or attorney or representative)

Have You?

- ☐ Read all of the General Instructions
- ☐ Provided all of the requested information
- ☐ Completed this form in English
- ☐ Provided a certified English translation for all non-English attachments

- ☐ Signed the form
- ☐ Served a copy of this form and all attachments on the opposing party
- ☐ Completed and signed the Certificate of Service
- ☐ Attached the required fee or fee waiver request

ATTACHMENT

The immigration judge made a finding that the alien's criminal activity was not particularly serious to bar him from withholding of deportation for torture of convention purposes. Therefore, the client was eligible for special withholding of deportation. The Court made a finding that the alien testified credibly. The Court made a finding that the alien based on his testimony did not establish a political connection sufficient enough to demonstrate a clear probability that the alien will be tortured back in his home country. He also went on to state that he did not even establish the standard necessary for withholding of deportation. The Court focused on testimony which was presented during the hearing, where the Respondent stated that he did not know the political affiliations of his business partner through the import/export business. The Court confused the facts that made the assumption that the contact person with the political organization in which the Respondent was involved with in New York City, and the business associate with his import/export business was the same person. This confusion led the Court to an improper conclusion that the Respondent did not know the political affiliation of his one and only contact in his home country, which allegedly imputed the political opinion upon him, that Respondent was a decedent. The objective facts of the record demonstrate that the Respondent faced some kind of persecution when he was in his home country. For whatever reason Respondent was traveling back to his home country yearly, however, at the exact point in time where Respondent states that he was arrested and confronted by the police on a trip back to his home country was, in fact, the last trip that Respondent took to his homeland. This coincides with the testimony where Respondent states that he left only days after arriving in his home country. Additionally, even though he established a pattern of returning back to his home country yearly, that pattern ceased after this incident.

The Respondent was involved with a political organization in New York, whose job was to support a political party back in his home country. The Respondent testified that he was accused of being a decedent, and this would be internally consistent with his claims. The Respondent testified that he worked as a recruiter attempting to bring people into the New York organization for the purposes of supporting his political party back in his home country. In the process of working as a recruiter, part of his duties was to have liaison communications with individuals back in the home country. These communications were uncovered by the government in the Respondent's home country, and when Respondent returned back home for a routine, yearly trip, he was confronted, arrested, and detained. Assuming that the Court found the Respondent credible, as it stated, and assuming that the Court made the mistake of facts as indicated above, then it would be the claim of the Respondent that the Court made an error as to the facts, which led to an improper conclusion of law. Additionally, the Court failed to consider the exculpatory evidence within the record, specifically the affidavit submitted by the Respondent. Further, the Court never stated its concerns directly to the Respondent, giving him an opportunity to clarify or explain his answers. Based on the foregoing facts, Respondent would ask that the Board of Immigration of Appeals to remand this case back to the immigration judge for further consideration.

U.S. DEPARTMENT OF JUSTICE
Executive Office for Immigration Review
Office of the Immigration Judge

In the Matter of:

Case No.: A

Docket:

RESPONDENT

IN DEPORTATION PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 10/15/99.
This memorandum is solely for the convenience of the parties. If the proceedings should be appealed, the Oral Decision will become the official decision in this matter.

- ☒ The respondent was ordered deported to Guatemala.
- ☐ Respondent's application for voluntary departure was denied and respondent was ordered deported to _____ or in the alternative to _____.
- ☐ Respondent's application for voluntary departure was granted until _____, with an alternate order of deportation to _____ or _____.
- ☒ Respondent's application for asylum was () granted () denied () withdrawn () other.
- ☒ Respondent's application for withholding of deportation was () granted () denied () withdrawn () other.
- ☐ Respondent's application for suspension of deportation was () granted () denied () withdrawn () other.
- ☐ Respondent's application for waiver under Section _____ of the Immigration and Nationality Act was () granted () denied () withdrawn () other.
- ☐ Respondent's application for _____ was () granted () denied () withdrawn () other.
- ☐ Proceedings were terminated.
- ☐ The application for adjustment of status under Section (216) (216A) (245) (249) was () granted () denied () withdrawn () other. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
- ☐ Respondent's status was rescinded under Section 246.
- ☒ Other CAT relief denied
- ☐ Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.

Immigration Judge

Date:

LINDNER & LINDNER
ATTORNEYS AT LAW
 205 FLORAL VALE BOULEVARD
 YARDLEY, PA 19067

REMITTANCE ADVICE	

60-259/3

15871

PAY One hundred and ten 00 DOLLARS

CHECK
AMOUNT

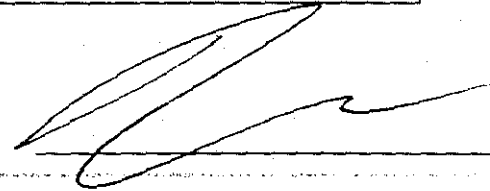
DATE	TO THE ORDER OF	HRS	GROSS	INC. TAX	SOC. SEC.	P.I.T.	MED.	LOCAL	
11-11-99	U.S. Department of Justice								
DESCRIPTION									

\$ 110

Appeal fee
Willen

PREMIER BANK

YARDLEY, PA



⑈015871⑈ ⑆031902591⑆ ⑈00 15883⑈


SECURITY FEATURES: MICRO PRINT BORDERS - COLORED BRICK PATTERN - WATERMARK & CARBON STRIP ON REVERSE SIDE - MISSING FEATURE INDICATES A COPY

NOTICE OF ENTRY OF APPEARANCE AS ATTORNEY OR REPRESENTATIVE
BEFORE THE BOARD OF IMMIGRATION APPEALS
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

In the Matter:		DATE	
Appeal		Nov 11 1995	
I hereby enter my appearance as attorney (or representative) for and at the request of the following named person(s):		ALIEN NUMBER (list lead alien number and all family member alien numbers if applicable)	
NAME Gladwin Wilson (Detained)		A 41-928-716	
ADDRESS (Apt. No.) (Number & Street) (City) (State) (Zip Code)		A	
Berks Detention Center Berks County PA		A	

Check if Applicable Item(s) below:

- ☒ 1. I am an attorney and a member in good standing of the bar of the Supreme Court of the United States or of the highest court of the following State, territory, insular possession, or District of Columbia
Supreme Court Of Pennsylvania and am not under a court
(Name of Court)
or administrative agency order suspending, enjoying disbarring, or otherwise restricting me in practicing law.
- ☐ 2. I am an accredited representative of the following named religious, charitable, social service, or similar organization established in the United States and which is so recognized by the Board:
- ☐ 3. I am associated with _____, the attorney of record who previously filed a notice of appearance in this case and my appearance is at his/her request.
(If you check this item, also check item 1 or 2 whichever is appropriate.)
- ☐ 4. Other *(Explain fully.)*

SIGNATURE 	COMPLETE ADDRESS <input type="checkbox"/> Check here if this is a new address 205 Floral Vale Blvd. Yardley, PA 19067
NAME (Type or print) Frank Billings Lindner Esq	TELEPHONE NUMBER 215-579-9800

PURSUANT TO THE PRIVACY ACT OF 1974, I HEREBY CONSENT TO REPRESENTATION BY AND THE DISCLOSURE TO THE FOLLOWING NAMED ATTORNEY OR REPRESENTATIVE OF ANY RECORD PERTAINING TO ME WHICH APPEARS IN ANY EOIR SYSTEM OF RECORDS:

Frank Billings Lindner

Name of Attorney or Representative:

NAME OF PERSON CONSENTING	SIGNATURE OF PERSON CONSENTING	DATE
Gladwin Wilson		

(NOTE: Execution of this box is required under the Privacy Act of 1974 where the person being represented is or claims to be a citizen of the United States or an alien lawfully admitted for permanent residence.)

U.S. DEPARTMENT OF JUSTICE
 Executive Office for Immigration Review
 Office of the Immigration Judge

In the Matter of:

Case No.: A

WILSON, Gladwin

Docket:

IN DEPORTATION PROCEEDINGS

RESPONDENT

ORDER OF THE IMMIGRATION JUDGEThis is a summary of the oral decision entered on 10/15/99

This memorandum is solely for the convenience of the parties. If the proceedings should be appealed, the Oral Decision will become the official decision in this matter.

- ☒ The respondent was ordered deported to Guyana
- ☐ Respondent's application for voluntary departure was denied and respondent was ordered deported to _____ or in the alternative to _____
- ☐ Respondent's application for voluntary departure was granted until _____, with an alternate order of deportation to _____ or _____
- ☒ Respondent's application for asylum was () granted () denied () withdrawn (X) other. preliminary
- ☒ Respondent's application for withholding of deportation was () granted (X) denied () withdrawn () other.
- ☐ Respondent's application for suspension of deportation was () granted () denied () withdrawn () other.
- ☐ Respondent's application for waiver under Section _____ of the Immigration and Nationality Act was () granted () denied () withdrawn () other.
- ☐ Respondent's application for _____ was () granted () denied () withdrawn () other.
- ☐ Proceedings were terminated.
- ☐ The application for adjustment of status under Section (216) (216A) (245) (249) was () granted () denied () withdrawn () other. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
- ☐ Respondent's status was rescinded under Section 246.
- ☒ Other CAT relief denied
- ☐ Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.

Immigration Judge

Date:

due 11/15/9910/15/99

Appeal: RESERVED/WAIVED (A/I/B)



U.S. Department of Justice
Immigration and Naturalization
Service
Philadelphia District
1600 Callowhill Street
Philadelphia, PA 19130

June 29, 1999

United States District Court
United States Courthouse
ATTN: Criminal Records
225 Cadman Plaza East
Brooklyn, NY 11201

Dear Sir/Madam:

Would you kindly furnish this office with a certified copy of the indictment referencing the following individual:

NAME:	Gladwin Wilson
DOB:	01/30/1959
DOCKET NO.:	97-CR-43
CHARGE:	Conspiracy to utter and possess forged and counterfeit securities, a class D felony

Please mail the document to the following address:

Department of Justice
U.S. Immigration & Naturalization Service
Office of District Counsel
ATTN: Eileen Schaller
1600 Callowhill Street, 4th Floor
Philadelphia, PA 19130

If you need any further information, please contact me at (215) 656-7146.

A handwritten signature in black ink, appearing to read "Eileen Schaller".

Eileen Schaller
Paralegal Specialist

FILED

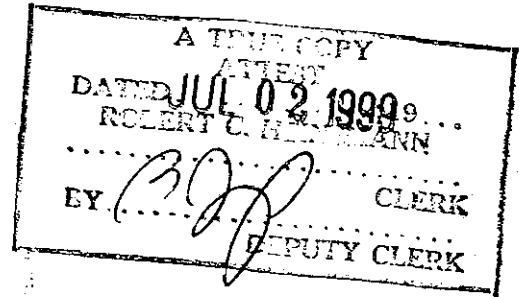
IN CLERKS OFFICE
U.S. DISTRICT COURT ED. N.Y.

★ JAN 15 1997 ★

P.M.

EOC:BM
F.#9605144
GWILSON.IND

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK



-----X

UNITED STATES OF AMERICA

I N D I C T M E N T

GLADWIN WILSON, also known as
"Baldwin Wilson" and "Gladstone
"Wilson,"

CD 07 0049
Cr. No. 99-0049
(T. 18, U.S.C., § 57a
513(a), 2 and
3551 et seq.)

Defendant.

BLOCK 11

THE GRAND JURY CHARGES:

GO. M.

COUNT ONE

In or about and between June 1995 and July 1995, both dates being approximate and inclusive, within the Eastern District of New York, GLADWIN WILSON, also known as "Baldwin Wilson" and "Gladstone Wilson," and others did knowingly and intentionally conspire to utter and possess forged and counterfeited securities of an organization, to wit: checks from the Lyndon Baines Johnson Health Clinic (the "Clinic"), with the intent to deceive another person and organization, in violation of Title 18, United States Code, Section 513(a).

In furtherance of the conspiracy and to effect the objectives thereof, within the Eastern District of New York and elsewhere, the defendant GLADWIN WILSON, also known as "Baldwin Wilson" and "Gladstone Wilson," and others did commit and cause to be committed the following:

OVERT ACTS

a. In or about June 1995, GLADWIN WILSON, also known as "Baldwin Wilson" and "Gladstone Wilson," met with others in Brooklyn, New York and discussed how to obtain counterfeited Clinic checks.

b. On or about July 18, 1995, the defendant GLADWIN WILSON, also known as "Baldwin Wilson" and "Gladstone Wilson," and others went to Key Bank in White Plains, New York, where they deposited counterfeited Clinic checks totaling approximately \$117,000 and obtained four bank checks totaling \$40,000.

c. On or about July 18, 1995, the defendant GLADWIN WILSON, also known as "Baldwin Wilson" and "Gladstone Wilson," and others exchanged the four bank checks for \$40,000 in cash.

d. On or about July 18, 1995, the defendant GLADWIN WILSON, also known as "Baldwin Wilson" and "Gladstone Wilson," and others divided the \$40,000 in cash.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

COUL I TWO

In or about and between June 1995 and July 1995, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant GLADWIN WILSON, also known as "Baldwin Wilson" and "Gladstone Wilson," and others did knowingly and intentionally utter and possess forged and counterfeited securities of an organization, to wit: checks from the Lyndon Baines Johnson Health Clinic, with the intent to deceive another person and organization.

(Title 18, United States Code, Sections 1344, 1345 and 3551 et seq.)

A TRUE BILL

Michael Williams

FOREPERSON

ZACHARY W. CARTER
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

BY: Benjamin D. Henderson
ACTING UNITED STATES ATTORNEY
PURSUANT TO 28 C.F.R. 0.131

FTA

Munaghatta

needs paper work -

V/S
5/15/98UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

GLADWIN WILSON,
Defendant.

6/10/98

Lm Munaghatta
FTAJUDGMENT INCLUDING SENTENCE
UNDER THE SENTENCING REFORM ACTCASE NUMBER: CR-97-43-01 (FB)
GEORGE LEWIS, ESQ. 403-9675
14 METROTECH CENTER, SUITE 213
BROOKLYN, NY 11201
Defendant's Attorney & Address4/14/
L/mXX pleaded guilty to count ONE OF THE INDICTMENT.

Accordingly, the defendant is ADJUDGED guilty of such count(s), which involve the following offenses:

TITLE & SECTION	NATURE & OFFENSE	COUNT NUMBER(S)
TITLE 18 USC SECTION 371	THE DEFENDANT AND OTHERS CONSPIRED TO UTTER AND POSSESS FORGED & COUNTERFEIT SECURITIES.	1

The defendant is sentenced as provided in pages 2 through of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

XX Count TWO is dismissed on the motion of the United States.XX It is ordered that the defendant shall pay to the United States a special assessment of \$50.00 which shall be due XX immediately:

It is further ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of residence or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Defendant's Soc. Sec #079-74-3418

Defendant's Mailing Address:

3126 DWIGHT AVENUE

FAR ROCKAWAY, NY 11691

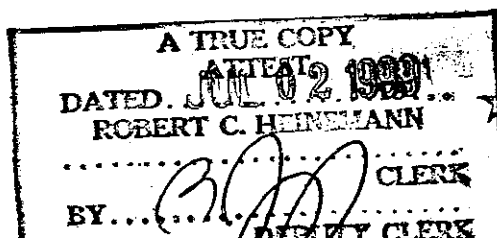
APRIL 3, 1998

Date of Imposition of Sentence

THE HONORABLE FREDERIC BLOCK

Date

A TRUE COPY ATTEST

Date: 4/7/98
ROBERT C. HEINEMANN
CLERK OF COURTBy: Mike J. Innelli
DEPUTY CLERK

FEB 20 1998

TIME AM. 10

P.M.

Defendant: GLADWIN WILSON
Case Number: CR-97-43-01 (FB)

Judgment - Page of

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of TWELVE MONTHS (12) AND ONE DAY.

XX The Court makes the following recommendations to the Bureau of Prisons:
THAT THE DEFENDANT BE INCARCERATED IN THE NORTH EAST REGION

 The defendant is remanded to the custody of the United States Marshal.
 The defendant shall surrender to the United States Marshal for this district,

 at a.m./p.m. on

XX The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons

XX before 2:00 p.m. on 5/15/98.
XX as notified by the United States Marshal.
 as notified by the Probation Office.

RETURN

I have executed this Judgment as follows:

Defendant delivered on 2-11-99 to ALF
FA, with a certified copy of this Judgment.

United States Marshal
By D. Gladwin

Defendant: GLADWIN WILSON
Case Number: CR-97-43-01(FB)

Judgment - Page of

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of THREE (3) YEARS WITH THE FOLLOWING SPECIAL CONDITION: THAT HE MAKE RESTITUTION TO KEY BANK IN THE SUM OF \$10,000.00 ACCORDING TO THE FOLLOWING SCHEDULE; \$3,000.00 BY THE END OF THE FIRST YEAR, \$3,000.00 BY THE END OF THE SECOND YEAR, AND \$4,000.00 BY THE END OF THE THIRD YEAR.

While on supervised release, the defendant shall not commit another Federal, state, or local crime and shall comply with the standard conditions that have been adopted by this court (set forth on the following page). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

____ The defendant shall pay any fines that remain unpaid at the commencement of the term of supervised release.

Defendant: GLADWIN WILSON
Case Number: CR-97-43-01(FB)

Judgment - Page of

STATEMENT OF FINDINGS

XX The court adopts the factual findings and guideline application in the presentence report.

OR

 The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary)

Guideline Range Determined by the Court:

Total Offense Level: 13

Criminal History Category: I

Imprisonment Range: 12 to 18 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 2,000.00 to \$ 20,000.00

XX Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: \$

 Full restitution is not ordered for the following reason(s):

XX The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

 The sentence is within the guideline range, that range exceeds 24 months and the sentence is imposed for the following reason(s):

 The sentence departs from the guideline range

 Upon motion of the government, as a result of defendant's substantial assistance.

 for the following reason(s):

Defendant: GLADWIN WILSON
Case Number: CR-97-43-01(FB)

Judgment - Page of

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on probation or supervised release pursuant to this Judgment:

- 1) The defendant shall not commit another Federal, state or local crime;
- 2) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 3) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 4) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 5) the defendant shall support his or her dependents and meet other family responsibilities;
- 6) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 7) the defendant shall notify the probation officer within seventy-two hours of any change in residence or employment;
- 8) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances except as prescribed by a physician;
- 9) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 10) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 11) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 12) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 13) the defendant shall not enter into any agreement to act as an informer or special agent of a law enforcement agency without the permission of the court;
- 14) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

These conditions are in addition to any other conditions imposed by this Judgment.

U.S. Department of Justice
Immigration and Naturalization

Rec'd of Deportable/Inadmissible Alien

CONTROL Name (Last, First, Middle) INMATE# 47748-053 PRD 6/15/99 Gladwin WILSON							Aliases		
Birthdate 1/30/59		Age 40		Marital Status <input type="checkbox"/> Single <input type="checkbox"/> Separated <input checked="" type="checkbox"/> Widowed <input type="checkbox"/> Married <input type="checkbox"/> Divorced		File Number A41 928 716		Name of Last/Current U.S. Employer N/A	
Sex M	Hair BLK	Eyes BRN	Complexion DARK	Height 510	Weight 215	Scars or Marks SC ABOVE L EYE		Address of U.S. Employer N/A	
U.S. Address/Mail (Number) (Street) (City) (State) (ZIP CODE) LSCI ALLENWOOD, P.O. BOX 1500 WHITE DEER PA 17887							Type of Employment N/A		
Alien's Telephone # (570) 547-1990				Date of Action 3/17/99		Location Code ALW		Salary N/A hr.	From: N/A To: N/A
City, Province (State) and Country of Birth GEORGETOWN, GUYANA						Country of Citizenship GUYANA		Passport Number and Country of Issue 247904 GUYANA	
Date, Place, Time, and Manner of Last Entry/Attempted Entry 4/18/88 NEW YORK, NEW YORK PLANE						Status at Entry P5-1 IMMIGRANT		Length of Time Illegally in U.S. NONE	Status When Found INSTITUTION
Foreign Address/Residence (Number, Street, City, Province (State), Country) GEORGETOWN, GUYANA							Arrived From/Boarded At GUYANA		
Method of Location/Apprehension 511.2.2				(At/Near) ALW		Date & Hour 3/17/99		Apprehended by MATTHEW A STERMAN / AGENT	
Visa # <input type="checkbox"/> NIV <input checked="" type="checkbox"/> IMM <input type="checkbox"/> None				Date of Visa Iss./Loc. 3/8/88 GEORGETOWN		Name on Social Security Card GLADWIN WILSON		Social Security No. 079-74-3418	
Name, Address, and Nationality of Spouse (Maiden Name, if appropriate) ELLEN WILSON, LPR OF US, GUYANA							Number & Nationality of minor Children 3 GUYANA		
Father's Name, and Nationality and Address, if Known OSCAR WILSON, GUYANA, GUYANA						Mother's Present and Maiden Names, Nationality, and Address, if Known JOHANNA WILSON, GUYANA, GUYANA			
Monies Due/Property in U.S. Not in immediate possession <input checked="" type="checkbox"/> None Claimed <input type="checkbox"/> See Form I-43				Record Checks Completed <input type="checkbox"/> None <input type="checkbox"/> Other (specify) <input checked="" type="checkbox"/> CIS <input checked="" type="checkbox"/> DACS <input checked="" type="checkbox"/> NCIC <input checked="" type="checkbox"/> NIIS <input type="checkbox"/> OASIS <input type="checkbox"/> STSC				F.B.I. No. 206953DB0	
Deportation Charge(s) 237 (a) (2) (A) (iii) ; 237 (a) () () () ; 237 (a) () () ()						Exclusion Ground(s) 212 (a) () () () ; 212 (a) () () ()			
Place a check on the appropriate box(es) if any of the following actions were completed: <input type="checkbox"/> Doc Lifted (No.) <input checked="" type="checkbox"/> Fingerprinted <input checked="" type="checkbox"/> Photographed <input type="checkbox"/> I-217 Executed								DACs Citation(s) R2A3	
Special Programs <input type="checkbox"/> OCDEF <input type="checkbox"/> Grandfathered Alien		<input type="checkbox"/> Sanctions SAVE		Fraudulent Documents <input type="checkbox"/> Sanctions <input type="checkbox"/> Other		Criminal Record: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> CA <input type="checkbox"/> CO <input type="checkbox"/> SR <input checked="" type="checkbox"/> AF		Immigration Record: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Prior Deport. <input type="checkbox"/> Prior VR	
Smuggled Alien <input type="checkbox"/> Land <input type="checkbox"/> Water <input type="checkbox"/> Aircraft		<input type="checkbox"/> Claimed <input type="checkbox"/> Verified		Assistance in Apprehension <input type="checkbox"/> Sensors <input type="checkbox"/> Observation Aircraft		<input type="checkbox"/> K-9 Patrol <input type="checkbox"/> Horse Patrol <input type="checkbox"/> All Terrain Vehicle <input type="checkbox"/> Other Observation Device (specify)			
Contraband: <input type="checkbox"/> Narcotics <input type="checkbox"/> Currency <input type="checkbox"/> Weapons <input type="checkbox"/> Other		Funds in Possession NONE		Alien Initial: _____ Date _____		A list of free legal services has been provided: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (formal proceedings were not instituted)			
Alien has been advised of communication privileges pursuant to 8 CFR 242.2(g). Initial _____ Date _____ Narrative: Include details not shown above and whether or not eligible for special status program (e.g., TPS, etc.) SUBJECT IS A CITIZEN AND NATIVE OF GUYANA. <i>R's objected to this statement</i> SUBJECT ENTERED THE UNITED STATES AT NEW YORK, NEW YORK ON APRIL 18, 1988 AS AN IMMIGRANT. SUBJECT APPLIED FOR NATURALIZATION BUT NEVER TOOK THE OATH. - <i>R's objected to this stat.</i> SUBJECT WAS CONVICTED IN THE EASTERN DISTRICT OF NEW YORK ON APRIL 7, 1998 FOR THE OFFENSE OF COUNTERFEIT SECURITIES 18 USC 371. SUBJECT HAS NO RECORD OF APPEAL OR PETITION PENDING WITH THIS SERVICE. SUBJECT HAS NO RECORD OF UNITED STATES MILITARY SERVICE. SUBJECT HAS NO RECORD OF FAMILY TIES IN THE UNITED STATES. - <i>R's objected to this statement</i>									
<input type="checkbox"/> Continued on attached continuation page DISTRIBUTION 2 TO FILE					Received (Subject and documents) (report of interview) from Officer: MATTHEW A STERMAN / AGENT 3 / 17 19 99 at 2:00 PM Disposition REQUEST NTA AND WA (Receiving Officer) <i>Guyana & Miller SIA</i>				

U.S. Department of Justice
Immigration and Naturalization Service

Additional Charges of Inadmissibility/Deportability

In: ☒ Removal proceedings under section 240 of the Immigration and Nationality Act
☐ Deportation proceedings commenced prior to April 1, 1997 under former section 242 of the Immigration and Nationality Act

In the Matter of:

Alien/Respondent: WILSON, Gladwin

File No.: A41 928 716 Address: York County Prison, 3400 Concord Road, York, PA 19533

There is lodged against you the additional charge that you are subject to being taken into custody and deported or removed from the United States pursuant to the following provision(s) of law:

Section 101(a)(43)(R) of the Immigration and Nationality Act, as amended (the "Act"), is the basis for the charge under section 237(a)(2)(A)(iii) contained on the Notice to Appear.

In support of the additional charges above there is submitted the following factual allegation(s) ☒ in addition to ☐ in lieu of the allegations set forth in the original charging document

5. You were sentenced to more than one year for the conviction alleged at allegation No. 4 on the Notice to Appear.

D
Dated: 7/13/99

[Signature]
(Signature of Service Counsel)

Genult + filed in
court 7/15/99
by TA
Baker

(Ex 2)

Additional allegations (continued):

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this Notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the charging document and that you are inadmissible or deportable on the charges contained in the charging document. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the INS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the INS.

Certificate of Service

This charging document was served on the respondent by me on Feb 7/19/99, in the following manner and in compliance with section 239(a)(1)(F) of the Act:

☒ in person ☐ by certified mail, return receipt requested ☐ by regular mail
(to: 61 Edwin Wilson @ Imm. Court, York, PA)
(Alien's address)

☐ The alien was provided oral notice in the _____ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of respondent if personally served)

Asst Dist. Counsel
(Signature and title of officer)

JUL-07-1999 08:48
Immigration Service

INS DISTRICT COUNSEL

215 656 7148 P.12/14
Notice to Appear

In removal proceedings

240 of the Immigration and Nationality Act

File No: A41 928 716

In the Matter of:

Respondent: Gladwin

WILSON

INMATE# 47748-053 PRD 6/15/99

LSCI ALLENWOOD, P.O. BOX 1500
WHITE DEER

PA 17887

(570) 547-1990

(Number, street, city, state and ZIP code)

(Area code and phone number)

- ☐ 1. You are an arriving alien.
- ☐ 2. You are an alien present in the United States who has not been admitted or paroled.
- ☒ 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

You are not a citizen or national of the United States; A

You are a native of Guyana and a citizen of Guyana; A

You were admitted to the United States at New York, New York on or about April 18, 1988 as an Immigrant; A

You were, on April 7, 1998, convicted in the United States District Court at the Eastern District of New York for the offense of the defendant and others conspired to utter and possess forged and counterfeit securities, in violation of Title 18, United States Code, Section 371. D

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 237(a)(2)(A)(iii) of the of the Immigration and Nationality Act (Act), as amended, in that, at any time after admission, you have been convicted of an aggravated felony as defined in section 101(a)(43) of the Act. D

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: IMMIGRATION COURT, 1600 CALLOWHILL STREET, ROOM 400, PHILADELPHIA, PA 19130

on TO BE SET at TO BE SET to show why you should not be removed from the United States based on the charge(s) set forth above.
(Date) (Time)

Acting IHP DIRECTOR
(Signature and Title of Issuing Officer)

Date: APR 05 1999

ALLENWOOD, PA
(City and State)

See reverse for important information

JUL-07-1999 08:49

INS DISTRICT COUNSEL
Reverse for important information

215 656 7148 P.13/14

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this Notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or deportable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the INS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the INS.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to have a 10-day period prior to appearing before an immigration judge.

(Signature of Respondent)

Before:

Date:

(Signature and Title of INS Officer)

Certificate of Service

This Notice to Appear was served on the respondent by me on APR 05 1999, in the following manner and in compliance with section 239(a)(1)(F) of the Act: (Date)

☒ in person ☐ by certified mail, return receipt requested ☐ by regular mail

☒ Attached is a list of organizations and attorneys which provide free legal services.

☒ The alien was provided oral notice in the ENGLISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

Padma Wilson
(Signature of Respondent or Person Served)

MATTHEW A. STRAHAN, AGENT
(Signature and Title of Agent)



U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

5201 Leesburg Pike, Suite 1300
Falls Church, Virginia 22041

Weber, Susan M.
2555 Kingston Road, Suite 260,
York, PA 17402-0000

Jeffrey T. Bubier, ADC
3400 Concord Road
York, PA 17402

Name: OMARI, MAHER

A76-766-772

Type of Proceeding:

Date of this notice: 10/18/99

Type of Appeal: Case Appeal

Filed by: INS

FILING RECEIPT FOR APPEAL

The Board of Immigration Appeals acknowledges receipt of your appeal and fee or fee waiver request (where applicable) on 10/15/99 in the above-referenced case.

PLEASE NOTE:

In all future correspondence or filings with the Board, please list the name and alien registration number ("A" number) of the case (as indicated above), as well as all of the names and "A" numbers for each family member who is included in this appeal.

Proof of service on the opposing party at the address above is required for ALL submissions to the Board of Immigration Appeals -- including correspondence, forms, briefs, motions, and other documents. If you are the Respondent or Applicant, the "Opposing Party" is the District Counsel for the INS at the address shown above. Your certificate of service must clearly identify the document sent to the opposing party, the opposing party's name and address, and the date it was sent to them. Any submission filed with the Board without a certificate of service on the opposing party will be rejected.

99 OCT 20 PM 1:33

DEPT. OF JUSTICE

TAYLORL

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

OMB # 1105-0065

Notice of Appeal to the Board of Immigration
Appeals of Decision of Immigration Judge

1. List Name(s) and "A" Number(s) of all Applicant(s)/Respondent(s):

OMARI, Maher

A76 766 772

****INS MERITS APPEAL****

! WARNING TO ALL APPLICANT(S)/RESPONDENT(S): Names and "A" Numbers of everyone appealing the order must be written in Item #1.

For Official Use Only

2. Applicant/Respondent is currently ☒ DETAINED ☐ NOT DETAINED.
3. Appeal from the Immigration Judge's decision dated October 8, 1999.

4. State in detail the reason(s) for this appeal. You are not limited to the space provided below; use more sheets of paper if necessary. Write your name(s) and "A" number(s) on every sheet.



WARNING: The failure to specify the factual or legal basis for the appeal may lead to summary dismissal without further notice, unless you give specific details in a timely separate written brief or statement filed with the Board.

This is a merits appeal by the Immigration and Naturalization Service (the "Service").

The Service hereby appeals a decision of the Immigration Judge granting the respondent withholding of removal under the Immigration and Nationality Act. The respondent failed to establish that it was more likely than not that he would suffer persecution if returned to Jordan. The background evidence did not support his claim that he would be persecuted because of his sexual relationship with a woman to whom he was not married. He failed to show that he would face harm on account of a protected ground. See, e.g., Matter of R-A-, Interim Decision 3403 (BIA 1999). The harm the respondent fears is a matter of personal revenge. See, e.g., Matter of Maldonado-Cruz, 19 I&N Dec. 509, 512 (BIA 1988); Matter of Y-G-, 20 I&N Dec. 794, 799 (BIA 1994). The respondent did not prove he could not seek the protection of the Jordanian authorities. Additional grounds and issues for appeal may be raised in the Service's appeal brief.

*****FEE EXEMPT*****

(Attach more sheets if necessary)

(Form continues on back)

Form EOIR - 26
Revised April 1996

5. I ☐ do
☒ do not desire oral argument before the Board of Immigration Appeals.

6. I ☒ will
☐ will not file a separate written brief or statement in addition to the "Reasons(s) for Appeal" written above or accompanying this form.



WARNING: Your appeal may be summarily dismissed if you indicate in Item #6 that you will file separate written brief or statement and, within the time set for filing, you fail to file the brief or statement and do not reasonably explain such failure.

US Immigration and Naturalization Service

**SIGN
HERE** →

7. X by [Signature]
 Signature of Person Appealing
 (or attorney or representative)

October 17, 1999
 Date

8.

Mailing Address of Applicant(s)/Respondent(s)
Maher Omari (Name)
c/o INS, Snyder County Prison (Street Address)
600 Old Colony Road (Apartment or Room Number)
Selingsgrove, PA 17870 (City, State, Zip Code)

9.

Mailing Address of Attorney or Representative
Susan Weber, Esquire (Name)
2555 Kingston Road (Street Address)
Suite 260 (Suite or Room Number)
York, PA 17402 (City, State, Zip Code)



WARNING: An attorney or representative will not be recognized as counsel on appeal and will not receive documents or correspondence in connection with the appeal, unless he/she submits completed Form EOIR-27.

CERTIFICATE OF SERVICE

(Must Be Completed)

10.

I Jeffrey T. Bubier, Assistant District Counsel mailed or delivered a copy of this notice of appeal
 (Name)
 on October 17, 1999 to Susan Weber, Esquire
 (Date) (Opposing Party)
 at 2555 Kingston Road, Suite 260, York, PA 17402.
 (Address of Opposing Party)

**SIGN
HERE** →

X [Signature]
 Signature of Person Appealing
 (or attorney or representative)

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
ALLENWOOD, PA

ATTESTATION TO CERTIFICATION OF
JUDGMENT AND CONVICTION RECORD(S)

In the Matter of:

OMARI Maher

Alien Number: A 76 766 772 BOP: 79493-079

I certify that I have reviewed the official Bureau of Prisons inmate record file pertaining to the above listed person and that this is an authentic copy of the certified Indictment & Judgment and conviction Record(s) contained in that file.

DECEMBER 15, 1998

Date



Signature

DAMIAN T. STREETZ

Type or Print Name

IMMIGRATION AGENT

Title

Attachment(s)

AO 245B (3/95) Sheet 1 - Judgment in a Criminal Case

UNITED STATES DISTRICT COURT

NORTHERN

District of

ILLINOIS

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

V.

MAHER OMARI

Case Number: 97 CR 460-4

PAUL WAGNER

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) one of the SUPERSEDING indictment☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.

Title & Section

Nature of Offense

Date Offense
ConcludedCount
Number(s)

18 U.S.C. § 371

Conspiracy to Defraud the Government

A TRUE COPY-ATTEST

MICHAEL W. DOBINS, CLERK

By

DENNY BEEK

U. S. DISTRICT COURT, NORTHERN
DISTRICT OF ILLINOIS

DATE: OCT 2 1998

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on count(s) _____☒ ~~COUNT(S)~~ ALL REMAINING COUNTS ~~(is)~~ (are) dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 408-43-8417Defendant's Date of Birth.: 6 SEPTEMBER 1964Defendant's USM No.: 79493079

Defendant's Residence Address:

2717 W. Argyle# BChicago, IL 60459

Defendant's Mailing Address:

2717 W. Argyle# BChicago, IL 604592 October 1998

Date of Imposition of Judgment

Signature of Judicial Officer

GEORGE M. MAROVICH - U.S. District Judge

Name and Title of Judicial Officer

2 October 1998

Date

AO 245B (3/95) Sheet 2 - Imprisonment

Judgment - Page 2 of 6

DEFENDANT: OMARI, Maher
CASE NUMBER: 97 CR 460-4

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of TWENTY (20) MONTHS.

☒ The court makes the following recommendations to the Bureau of Prisons:

Metropolitan Correctional Center, Chicago, IL

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

- ☐ at _____ a.m./p.m. on _____
☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- ☐ before 2 p.m. on _____
☐ as notified by the United States Marshal.
☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on 11/21/08 to ALF
at PA, with a certified copy of this judgment.

UNITED STATES MARSHAL

By R. H. Anderson
Deputy U.S. Marshal

DEFENDANT: OMARI, Maher

Judgment - Page 3 of 6

CASE NUMBER: 97 CR 460-4

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of THREE (3) YEARS.

IT IS FURTHER ORDERED, as a special condition of supervised release, that if deported, defendant shall not re-enter the United States without prior permission from the Immigration & Naturalization Service.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and ~~at least two periodic drug tests thereafter as directed by the probation officer.~~ and up to 104 tests annually.

☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

☐ The defendant shall not possess a firearm as defined in 18 U.S.C. § 921. (Check, if applicable.)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

AO 245B (3/95) Sheet 5, Part A - Criminal

Penalties

Judgment - Page 4 of 6

DEFENDANT: OMARI, Maher

CASE NUMBER: 97 CR 460-4

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 100.00	\$	\$ 42,000.00

☐ If applicable, restitution amount ordered pursuant to plea agreement \$ _____

FINE

The above fine includes costs of incarceration and/or supervision in the amount of \$ _____.

The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

☐ The court has determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ The interest requirement is waived.

☐ The interest requirement is modified as follows:

RESTITUTION

☐ The determination of restitution is deferred in a case brought under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after 09/13/1994, until _____. An Amended Judgment in a Criminal Case will be entered after such a determination.

☒ The defendant shall make restitution to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

<u>Name of Payee</u>	<u>* Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
Thomas Faldani BANK OF AMERICA 231 S. LaSalle St. Chicago, IL 60697		\$42,000.00	

Totals: \$ _____ \$ 42,000.00

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994.

AG 245B (3/95) Sheet 5, Part B - Criminal

Penalties

DEFENDANT: OMARI, Maher
CASE NUMBER: 97 CR 460-4

Judgment - Page 5 of 6

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

- A ☐ In full immediately; or
- B ☐ \$ _____ immediately, balance due (in accordance with C, D, or E); or
- C ☐ not later than _____; or
- D ☐ in installments to commence _____ days after the date of this judgment. In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. probation officer shall pursue collection of the amount due, and shall request the court to establish a payment schedule if appropriate; or
- E ☐ in _____ (e.g., equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ year(s) to commence _____ days after the date of this judgment.

The National Fine Center will credit the defendant for all payments previously made toward any criminal monetary penalties imposed.

Special instructions regarding the payment of criminal monetary penalties:

Defendant shall participate in the Inmate Financial Responsibility Program. Upon release from custody, defendant shall make monthly payments of \$150.00 per month beginning thirty days upon release.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments are to be made to the United States Courts National Fine Center, Administrative Office of the United States Courts, Washington, DC 20544, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. If the National Fine Center is not operating in this district, all criminal monetary penalty payments are to be made as directed by the court, the probation officer, or the United States attorney.

AO 245B (3/95) Sheet 6 - Statement of Reasons

DEFENDANT: OMARI, Maher
CASE NUMBER: 97 CR 460-4

Judgment - Page 6 of 6

STATEMENT OF REASONS

☒ The court adopts the factual findings and guideline application in the presentence report.

OR

☐ The court adopts the factual finding and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court :

Total Offense Level: 19

Criminal History Category: I

Imprisonment Range: 30 to 37 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 100.00 to \$ 250,000.00

☒ Fine waived or below the guideline range because of inability to pay.

Total Amount of Restitution: \$

☐ Restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims, pursuant to 18 U.S.C. § 3663(d).

☐ For offenses that require the total amount of loss to be stated, pursuant to Chapters 109A, 110, 110A, and 113A of Title 18, restitution is not ordered because the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of a restitution order in the foreseeable future under any reasonable schedule of payments.

☐ Partial restitution is ordered for the following reason(s):

☐ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.

OR

☒ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reasons:

see transcript

OR

☐ The sentence departs from the guideline range:

☐ upon motion of the government, as a result of defendant's substantial assistance.

☐ for the following specific reason(s):

This report may be disclosed
in its entirety.

J. Dominquez
U. S. Probation Officer

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA)

vs.)

OMARI, Maher)

PRESENTENCE INVESTIGATION REPORT

Docket No.: 97 CR 460-4

Prepared For: The Honorable George M. Marovich
United States District Court Judge

Prepared By: Isabelle Dominguez
U.S. Probation Officer
55 East Monroe - Suite 1500
Chicago, Illinois 60603
(312)435-5770

Assistant U.S. Attorney
Vilija A. Bilaisis
219 S. Dearborn
U.S. Courthouse - 5th Floor
Chicago, Illinois 60604
(312)353-3148

Defense Counsel
Paul A. Wagner
321 S. Plymouth, Ste. 1500
Chicago, Illinois 60604
(312)413-1145

Sentence Date: October 2, 1998, at 9:00 a.m.

Offense: Count One: Conspiracy to Defraud the Government (18 USC 371) - Five Years
Incarceration/\$250,000 Fine

Release Status: The defendant has been incarcerated in the Metropolitan Correctional Center since
February 9, 1998, subsequent to his arrest on January 8, 1998 in Houston, Texas.

Detainers: None

Codefendants: IYSHEH, Ali (97 CR 460-1): Pled guilty to Count One of superseding indictment on
January 15, 1998. Sentencing set for October 2, 1998.

Date Report Prepared: June 9, 1998

Date Report Revised: September 22, 1998

ATOOM, Husien (97 CR 460-2): Pled guilty to Count One of superseding indictment on January 15, 1998. Sentencing set for October 2, 1998.

NUBANI, Maher (97 460-3): Pled guilty to Count One of superseding indictment on June 4, 1998. Sentencing set for October 2, 1998.

RIHANI, Maher (97 CR 460-5): Pled guilty to Count One of superseding indictment. Sentencing set for October 2, 1998.

APUZAITOUN, Yousef (97 CR 460-6): Fugitive.

FARRAJ, Christos (97 CR 460-7): Pled guilty to Count One of superseding indictment on June 4, 1998. Sentencing set for October 2, 1998.

Related Cases: None

Identifying Data:

Date/Place of Birth:	September 6, 1964/Amman, Jordan.
Age:	33
Race:	White
Sex:	Male
SSN No:	408-43-8417
FBI No:	183710PA3
USM No:	79493079
Other ID No:	Illinois Driver's License: 056054164254
Education:	Some College
Marital Status:	Divorced
Dependants:	None
Citizenship:	Jordan
Legal Address:	2717 W. Argyle, #B Chicago, Illinois 60459
Aliases:	Maher A. Omari Muhir Omari Maher Adnan Talal Al Omari

Optional Photograph

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1 PART A. THE OFFENSE

2 Charge (s) and Conviction (s)

3 On or about June 28, 1997, a felony complaint was filed in the Northern District of Illinois which
4 charged Ali Iysheh and Husien Atoom, with the sale or receipt of stolen motor vehicles; in violation
5 of Title 18, U.S.C. § 2313(a). On that same date, Defendants Iysheh and Atoom were arrested. (On
6 July 10, 1997, a detention hearing was held on Defendant Atoom before the Honorable Ronald A.
7 Guzman, and was continued). On January 8, 1998, Maher Omari was arrested in Houston, Texas,
8 was ordered detained, then extradited to Chicago, Illinois, where he was ordered detained at the
9 federal Metropolitan Correctional Center. On February 9, 1998 the defendant was arraigned on the
10 superseding indictment before Magistrate Judge Martin C. Ashman. A pretrial report was
11 completed on the defendant and he was tested for illegal substances. His urinalysis results were
12 negative, and he did cooperate with the pretrial investigator during his interview. Subsequent to
13 a detention hearing held on February 19, 1998, the defendant was not released on bond, due to the
14 assessment of the Court, that judged the defendant to pose a flight risk. On June 4, 1998, the
15 defendant pled guilty to Count One of the superseding indictment before The Honorable George M.
16 Marovich. The cause was referred to the probation office for the completion of the presentence
17 investigation report. Sentencing was set for October 2, 1998 at 10:00 a.m.

18 On July 23, 1997, a two-count indictment was filed by a Northern District of Illinois Grand Jury,
19 which named Defendants Ali Iysheh, Husien Atoom and Maher Nubani. Count One charges that
20 from on or about June 26, 1997, and continuing until on or about June 27, 1997, Defendants Iysheh,
21 Atoom and Nubani did conspire with each other and others to commit an offense against the United
22 States; namely to receive, possess, conceal, store and sell motor vehicles which had crossed a state
23 boundary after being stolen; in violation of Title 18, U.S.C. § 2313(a); all in violation of Title 18
24 U.S.C. § 371. Count Two charges that on or about June 27, 1997, Defendants Iysheh, Atoom and
25 Nubani did receive, possess, conceal, store and attempt to sell 13 stolen vehicles; in violation of Title
26 18, U.S.C. § 2313 (On July 29, 1997, the defendants were arraigned and pled guilty to the
27 indictment). On August 1, 1997, the Honorable Ronald A. Guzman granted the government's
28 motion to dismiss the complaint against Defendants Iysheh and Atoom without prejudice.

29 On November 19, 1997, a ten-count superseding indictment was filed by a Northern District of
30 Illinois Grand Jury naming Defendants Ali Iysheh, Husien Atoom, Maher Nubani, Maher Omari,
31 Maher Rihani, Yousef Apuzaitoun, and Christos Farraj. On that same date, bench warrants were
32 issued for Defendant's Omari, Rihani and Apuzaitoun. (On November 25, 1997, defendants Iysheh,
33 Atoom, Nubani and Farraj were arraigned before the Honorable Ann C. Williams and pled not guilty
34 to the superseding indictment). On December 4, 1997, Defendant Rihani was arrested. On that date,
35 Defendant Rihani was ordered released by bond to be secured by real estate. Defendant Rihani was

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36 actually released on or about December 13, 1997. Conditions of the bond required the defendant
37 unable to travel outside the Northern District of Illinois without prior court approval, report by
38 telephone, weekly, to Pretrial Officer, Sean Mc Clellan.

39 Count One of the superseding indictment charged that from on or about March 28, 1997, through
40 and until July 1997, in the Northern District of Illinois, Eastern Division, and elsewhere, Defendants
41 Rihani, Iysheh, Atoom, Nubani, Omari, Apuzaitoun and Farraj, conspired with each other and others
42 known and unknown to the Grand Jury to knowingly commit offenses against the United States,
43 specifically to defraud a financial institution by means of false and fraudulent pretenses; in violation
44 of Title 18 U.S.C. § 134, to transport in interstate commerce motor vehicles; in violation of Title 18
45 U.S.C. 2312 and to receive possess, conceal, store and sell said vehicles; in violation of Title 18
46 U.S.C. § 2313(a); all in violation of Title 18 U.S.C. § 371.

47 Count Two of the superceding indictment charged that beginning on or about March 28, 1997, and
48 continuing through and until June 30, 1997, in Chicago, in the Northern District of Illinois, Eastern
49 Division, Defendants Omari, Rihani, Apuzaitoun, and Farraj, did knowingly devise and engage in
50 a scheme to defraud. Specifically, on or about June 18, 1997, the defendants deposited two
51 fraudulent cashier's checks into the Abita Auto sales account at Liberty Federal Bank; in violation
52 of Title 18 U.S.C. § 1344.

53 Count Three of the superceding indictment charged that on or about June 18, 1997, for the purpose
54 of executing the scheme to defraud described in Count Two, in Chicago, in the Northern District
55 of Illinois, Eastern Division, Defendants Rihani, Omari, and Apuzaitoun deposited two forged and
56 fraudulent cashier's checks in the Ten Four Auto Sales bank account at Bank of America; in
57 violation of Title 18 U.S.C. § 1344.

58 Count Four of the superceding indictment charged that on or about June 23, 1997, for the purpose
59 of executing the scheme to defraud described in Count Two, in Chicago, in the Northern District of
60 Illinois, Eastern Division, Defendants Rihani and Omari did deposit a forged and fraudulent cashier's
61 check in the amount of \$9,000, into the personal savings account of Yousef Apuzaitoun at the Bank
62 of America; in violation of Title 18 U.S.C. § 1344.

63 Count Five of the superceding indictment charged that beginning on or about March 28, 1997 thru
64 and until June 23, 1997, Defendants Rihani, Omari, Apuzaitoun, and Farraj did knowingly devise
65 a scheme to defraud Metro Milwaukee Auto Auction. Specifically, on May 20, 1997, in furtherance
66 of the fraud the defendants did cause the placement of a telephone call by Meteor Milwaukee Auto
67 Auction to Bank of America; in violation of Title 18 U.S. C. § 1343.

68 Count Six of the superceding indictment charged that on or about June 16, 1997, for the purpose of
69 executing the scheme to defraud described in Count Two, in Chicago, in the Northern District of

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70 Illinois, Eastern Division and elsewhere, Defendants Rihani, Omari, Farraj, did transmit a facsimile
71 from Liberty Bank in Chicago, Illinois, to Metro Milwaukee Auto Auction, in Caledonia, Wisconsin
72 in furtherance of their scheme to fraudulently obtain used vehicles; all violation of Title 18 U.S.C.
73 § 1343.

74 Count Seven of the superceding indictment charged that on or about June 18, 1997, for the purpose
75 of executing the scheme to defraud described in Count Two, in Chicago, in the Northern District of
76 Illinois, Eastern Division and elsewhere, Defendants Rihani, Omari and Apuzaitoun, did cause to
77 be transmitted a telephone call from Metro Milwaukee Auto Auction in Caledonia, Wisconsin, to
78 Bank of America in Chicago, Illinois, in furtherance of their scheme to fraudulently obtain used
79 vehicles; all in violation of Title 18 U.S.C. § 1343.

80 Count Eight of the superceding indictment charged that on or about June 18, 1997, at Chicago, in
81 the Northern District of Illinois, and elsewhere, Defendants Rihani, Omari, Farraj, Atoom and
82 Apuzaitoun did transport in interstate commerce from Caledonia, Wisconsin, to Chicago, Illinois
83 four stolen vehicles; in violation of Title 18 U.S.C. § 2312.

84 Count Nine and Ten of the superceding indictment charged that on or about June 18, 1997 to on or
85 about June 27, 1997, at Chicago, in the Northern District of Illinois, and elsewhere, Defendants
86 Rihani, Iysheh, Atoom, Nubani, and Omari did receive, posses, conceal, store, and attempt to sell
87 13 vehicles which had crossed state boundaries, subsequent to being stolen from Metro Milwaukee
88 Auto Auction; all in violation of Title 18 U.S.C. § 2313.

89 Pursuant to the written plea agreement, the defendant agrees he will fully and truthfully cooperate
90 with the government in any matter in which he is called upon to cooperate. The defendant agrees
91 to postpone his sentencing until after the conclusion of the prosecution of this case. At the time of
92 sentencing, the government shall make known to the sentencing judge the extent of the defendant's
93 cooperation, and shall move the Court, pursuant to U.S.S.G. §5K1.1 to depart from the applicable
94 sentencing guidelines range, and to impose the specific sentence agreed to by the parties. The plea
95 agreement is governed, in part, by the Federal Rule of Criminal Procedure 11(e)(1)(C), in that the
96 parties have agreed that the sentence imposed by the Court shall include a term of imprisonment in
97 the custody of the Bureau of Prisons of two-thirds of the low end of the applicable guideline range.
98 After the sentence has been imposed, the government will move to dismiss the remaining counts of
99 the superseding and original indictment which pertain to the defendant.

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100 The Offense Conduct

101 The details of the offense were obtained from the attached government's version, plea agreement,
102 defendant's version and the superseding indictment. The government's version incorporates
103 information obtained from testimony of the cooperating witnesses, testimony of the investigating
104 case agent, and evidence seized during the investigation. Interviews were also conducted with
105 Special Agent Deborah Jones-Buggs, Federal Bureau of Investigation (FBI), and Assistant United
106 States Attorney Vilija A. Bilaisis.

107 Prior to his participation in the present offense, Maher Omari admits he worked for, owned and
108 operated, several unsuccessful used car dealerships. Mr. Omari opened these used car dealerships
109 by purchasing used cars with fraudulent business checks. Although he knew he did not have
110 sufficient funds to cover the amounts written on the fraudulent checks, he hoped to deposit sufficient
111 funds into the accounts after selling the cars he had purchased. Mr. Omari did not generate sufficient
112 funds to cover his debts, thus he acquired a poor credit rating with several auto auctions, and
113 incurred a significant debt.

114 In or about March of 1997, Maher Omari decided to open a used car dealership called Avita Auto
115 Sales. Due to his poor credit history based on his prior businesses, Mr. Omari decided to find a
116 partner who had an excellent credit rating, and whom he could convince to open a business under
117 their name. While frequenting the Stars Coffee Shop, Mr. Omari met Christos Farraj. Mr. Farraj
118 agreed to allow Mr. Omari to open the business, lease a sales lot, and apply for insurance using his
119 name.

120 According to the government, based on information obtained from Mr. Omari, a few days later, Mr.
121 Omari was approached by Maher Rihani, another patron of the Star Coffee Shop. Mr. Rihani
122 expressed an interest in becoming a partner in a car dealership with Mr. Omari. Mr. Rihani told Mr.
123 Omari of a scheme in which he, along with a man named "Joe", would open accounts depositing
124 fraudulent cashier's checks, then withdraw the money through ATM (Automated Teller Machines)
125 or through bank tellers. Mr Rihani explained to Mr. Omari that he and Joe had successfully stolen
126 merchandise from Sam's Club and defrauded Bank of America using this technique. According to
127 the government, Mr. Rihani and Mr. Omari agreed that they would purchase cars at auctions with
128 fraudulent checks, and sell the vehicles. Mr. Rihani advised Mr. Omari that their profits would be
129 shared with Joe since he was the man with the capability to create the fraudulent cashier's checks.
130 In an interview with Mr. Rihani, the defendant denies the conversation which they reportedly agreed
131 to purchase cars at auctions with fraudulent checks and stated that he did not introduce "Joe" to
132 Omari. He indicated he knew nothing of Joe's capability of creating fraudulent cashier's checks.

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133 According to the government, Defendant Rihani recruited Defendant Apuzaitoun to participate in
134 the scheme, and with Defendant Omari's assistance, directed him to apply for an auto dealership
135 license and insurance, and rent a car lot in the name of Ten Four Auto Sales. Mr. Rihani claims that
136 he was brought into the scheme by Defendant Apuzaitoun.

137 According to the government, Defendants Omari and Rihani directed Defendants Farraj and
138 Apuzaitoun to open personal and business accounts under their names or under the Avita and Ten
139 Four Auto Sales names. Defendants Omari and Rihani assisted Defendant Apuzaitoun in opening
140 accounts at Bank of America, Uptown Bank, and Midtown Bank. Defendant Rihani gave Defendant
141 Apuzaitoun \$3,000 with which to open these account, and Defendant Omari assisted Defendant
142 Apuzaitoun in opening the account since he did not speak English very well. In order to make the
143 accounts appear active, fraudulent checks were created, made payable to either Avita or Ten Four
144 Auto Sales, then deposited into the different accounts over the next several months. Mr. Rihani
145 states he did not give \$3,000 to Defendant Apuzaitoun to open an account.

146 Defendants Atoom and Nubani approached Defendant Omari with an interest in becoming involved
147 in Avita Auto Sales, and Defendant Atoom agreed to a \$5,000 investment. Agent Buggs stated that
148 it is not clear whether Defendants Atoom and Nubani knew that the auto dealership would be dealing
149 in stolen vehicles at this point. However, at some point before or after the purchase of the nine
150 vehicles on June 11, 1997, Defendants Atoom and Nubani were informed the vehicles they would
151 insist on selling were purchased using fraudulent checks. Defendant's Atoom and Nubani also aided
152 in opening accounts under Defendant Farraj's name.

153 During the period of the scheme, Defendant Omari delegated the responsibility of upholding the
154 appearances of everyday business operations on the Avita Auto Sales lot, to his coconspirators. For
155 example, Defendants Farraj and Atoom were asked to stay on the Avita Auto Sales lot and answer
156 telephones, despite the fact that there was not actually any cars being sold directly from that lot.

157 Throughout the scheme Mr. Omari applied for credit with several auto auctions, those being Metro
158 Milwaukee Auto Auction, Dyer Auto Auction, and Rockford Auto Auction. The information
159 included on the applications was comprised of falsely inflated balances in the bank accounts that had
160 been opened by Defendants Farraj and Apuzaitoun. Upon credit approval for the amount of \$1,000
161 from Metro Milwaukee Auto Auction, on or about June 11, 1997, Defendants Omari, Rihani, and
162 Apuzaitoun purchased nine vehicles in the name of Ten Four Auto Sales. They left Metro
163 Milwaukee Auto Auction on a gate pass and should have either returned or paid for the vehicles that
164 day. Rather than transport the cars to the Ten Four lot, Defendant Rihani suggested they sell them
165 immediately to friends and relatives. According to the government, Mr. Rihani contacted several
166 potential buyers, sold and traded some of the vehicles. Agent Buggs stated that it was unclear
167 whether some of the vehicles were sold, given in place of money owed, or simply given to
168 individuals with the understanding that they would pay for them. Defendant Rihani stated he never

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168 individuals with the understanding that they would pay for them. Defendant Rihani stated he never
169 sold any of the vehicles to any of his friends or his relatives.

170 According to the government's version, per Defendant Omari, on or about June 16, 1997, Defendant
171 Rihani introduced Defendant Omari to "Joe." Defendant Rihani stated he did not know Joe and did
172 not introduce him to Defendant Omari. The government's version indicated Defendant Rihani
173 informed Joe that they would need checks in the amounts of \$110,000 and \$86,000. The next day,
174 Defendants Omari and Rihani went to Joe's residence, where they witnessed Joe using real cashier's
175 checks in the amount of \$86 and \$110, to create fraudulent checks in the amount of \$86,000 and
176 \$110,000 payable to Avita Auto Sales. On June 18, 1997, Joe printed two more checks of the same
177 value, payable to Ten Four Auto Sales. Defendant Rihani denies that he was present when Joe
178 printed the fraudulent checks. On that date, at the direction of Defendants Rihani and Omari,
179 Defendants Atoom, Nubani, and Farraj drove to Liberty Bank and, while Defendants Nubani and
180 Atoom waited in the car, Defendant Farraj entered the bank in an attempt to deposit the fraudulent
181 checks payable to Avita. Defendant Atoom entered the bank a short time after Defendant Farraj.
182 The bank would not accept the checks. At the same time, Defendant Apuzaitoun successfully
183 deposited the two checks payable to Ten Four Auto Sales at Bank of America.

184 According to Ms. Bilaisis, although Defendant Omari claims that he informed Defendants Nubani
185 and Atoom about the fraud, he was not specific on what Defendants Nubani and Atoom knew
186 regarding the fraudulent checks. Ms. Bilaisis related that Defendants Nubani and Atoom maintain
187 that when they accompanied Defendant Farraj to the bank, they were not aware that the two checks
188 were fraudulent. Defendant Atoom stated that he was not aware of the fraudulent checks until he
189 entered the bank after Defendant Farraj, was told that the bank would not deposit the checks, and
190 saw that the checks "looked funny." Ms. Bilaisis stated that although the defendants acknowledged
191 that they later knew about Joe and the fact that he produced the fraudulent checks, she does not have
192 evidence to support the position that Defendants Nubani and Atoom had knowledge of the attempted
193 fraud when they drove with Defendant Farraj to the bank.

194 On June 18, 1997, all the defendants traveled to Metro Milwaukee Auto Auction, for the purpose
195 of purchasing more vehicles, and to pay for the nine vehicles purchased on June 11, 1997.
196 Defendants Rihani and Apuzaitoun provided checks to Metro Milwaukee totaling \$137,090 to pay
197 for the nine vehicles. Metro Milwaukee telephoned Bank of America to verify that there was
198 sufficient money to cover the checks. Due to the fraudulent checks the defendants had deposited,
199 thus creating a false balance, Bank of America verified that there was a sufficient balance to cover
200 the checks. Although Metro Milwaukee accepted the check, it would not release the titles until the
201 checks cleared. The defendants purchased four more vehicles that day, valued at \$94,910, although
202 they did not have to pay for them on that day.

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203 Defendants Omari and Rihani did not want to store the vehicles on their car lots. Defendant Atoom
204 advised Defendant Omari that his friend Ali Iysheh, had a garage in which they could store some of
205 the cars. Defendant Iysheh agreed to store the cars in his garage for a share of the profits once the
206 cars were sold. Defendant Iysheh arranged for the rental of a lot to store some of the vehicles.
207 Defendant Rihani gave Defendants Nubani, Atoom and Iysheh money to find a larger storage facility
208 to accommodate all the cars that were stolen. Defendant Atoom rented a storage space in his name.

209 Sometime after June 18, 1997, but before June 27, 1997, Joe provided Defendants Omari and Rihani
210 additional fraudulent checks, which they had Defendant Apuzaitoun deposit in various accounts.
211 Defendant Rihani and Joe withdrew the money from the ATMs and shared the proceeds, although
212 Mr. Rihani denies this.

213 During this same period, Defendants Atoom, Nubani and Iysheh were attempting to locate a buyer
214 for the remaining vehicles. According to Agent Buggs, on June 26, 1997, the FBI received
215 information from an automobile dealer regarding individuals attempting to sell stolen vehicles,
216 which resulted in an undercover investigation with an agent posing as a purchaser of automobiles.
217 A deal was made in which the agent agreed to pay a price of \$120,000 for the stolen automobiles.
218 Defendants Atoom and Iysheh were arrested on June 28, 1998.

219 According to the government, during this period Defendant Rihani told Defendant Omari that he was
220 making arrangements for Defendant Apuzaitoun to return to Jordan, and they agreed to get
221 Defendant Farraj out of the country, as they did not want him to go to the government regarding the
222 scheme. After learning of Defendant Atoom's arrest, Defendant Omari went into hiding, and
223 Defendant Rihani purchased a ticket for Defendant Farraj to leave the country. Defendant Rihani
224 denies that he made arrangements for Defendant Apuzaitoun to return to Jordan.

225 The total amount of forged checks deposited into the Ten Four Auto Sales and related accounts was
226 \$333,200. All the vehicle were recovered and returned to Metro Milwaukee Auto Auction. The total
227 value of the 13 vehicles obtained by fraud was \$232,000. Bank of America sustained an actual loss
228 of \$42,000 due to the fraudulent checks deposited and withdrawals made.

229 Agent Buggs characterized Defendant Omari as the "ringleader" who brought in Defendants Farraj,
230 Atoom, and Nubani. She characterized Defendant Farraj as the lowest member of the conspirators,
231 she stated that "everyone treated him like a mope," however, she related that Defendant Farraj "knew
232 what was going on." Agent Buggs related that Defendant Atoom confirmed that Defendant Omari
233 verbally threatened Defendant Farraj, but no defendant could confirm Defendant Farraj's claim that
234 Defendant Omari had physically abused him and threatened him with a gun, which Defendant Omari
235 denies. The agent related that it is "very questionable" about how Defendant Rihani became
236 involved in the scheme, in that Defendant Omari's version and Defendant Rihani's version are
237 different. The agent stated that she would not fully believe any of the defendants. Agent Buggs

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states that Defendant Rihani is "covering up" for Joe, claiming he has no information regarding the production of the checks. However, all the defendants indicate that Defendant Rihani has more of a role in this scheme than he admits to, and that all the defendants, including Defendant Rihani knew that "Joe" was producing fraudulent checks. The agent stated Defendant Atoom became involved in an attempt to recover the loss he suffered from Dallas Automobile Dealers which he had operated previously with Defendant Omari. In regards to Defendant Iysheh, the agent related that there is no evidence that he knew about the purchase of the vehicles with fraudulent checks before it was completed. However, the agent stated that it is on tape that he knew the vehicles were stolen once he became involved in storing and selling the vehicles. Agent Buggs stated that it is not clear how much each of the participants expected to receive as their cut of the fraud.

In regards to Defendant Rihani's role, Ms. Bilaisis related that all the defendants presented the same picture, that Defendant Rihani was the one with the money, in that he had the fraudulent checks and the connection to Joe, the person who produced the checks. She related that Defendant Rihani is trying to "flip" his role with Defendant Apuzaitoun. Assistant United States Attorney Vilija A. Bilaisis related that although Defendant Omari provided more details regarding Defendant Rihani's role, the other defendant's stories corroborated Defendant Omari's story. Ms. Bilaisis further related that during his cooperation, she has never found Defendant Omari to lie about any part of the offense. She related that she plans on having Defendants Nubani and Omari testify at the sentencing of Defendant Rihani regarding his role. Ms. Bilaisis further related that she did not hold Defendant Rihani responsible for the four vehicles purchased by Avita, as there is no evidence he was involved with Avita Auto Sales. She explained that although he was present at Metro Milwaukee Auto Auction the day the other defendants took possession of the four vehicles for Avita, he was only there to pay for and obtain the titles for the nin automobiles he had purchased the week prior.

In regards to the cooperation of Defendants Omari, Atoom, Nubani, Farraj, Agent Buggs related that the defendants provided information about this scheme, and agreed to testify. Agent Buggs further related that without Defendant Omari's cooperation there would have been a "lot more blanks," and Defendant Rihani probably would have gone to trial. She stated that Defendant Rihani has minimized his role and has not provided information on any other participants.

Victim Impact

The Victim Impact statement, incorporated into the government's version by Assistant United States Attorney William D. Shaver, is attached for the Courts' review.

Adjustment for Obstruction of Justice

The probation officer has no information to suggest that the defendant impeded or obstructed justice during the investigation or prosecution of this offense.

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272 Adjustment for Acceptance of Responsibility

273 The defendant did not discuss his involvement in the present offense upon advice from his attorney,
274 Paul A. Wagner. Although a written version of the defendant's offense conduct has not been
275 received, Mr. Wagner and Mr. Omari agreed that the plea agreement is a complete and accurate
276 account of the defendant's conduct in the present offense. The government agrees that the details
277 in the plea agreement are derived from complete information concerning Mr. Omari's involvement
278 in the instant offense, and credit the defendant with assisting in the prosecution of his co-
279 conspirators. According to Assistant United States Attorney Biliasis, Mr. Omari's testimony and
280 willingness to be a witness, encouraged Mr. Rihani to plead guilty rather than put the government
281 to its burden with a trial. Mr. Omari also pled guilty in a timely fashion. Therefore, a three- level
282 reduction appears appropriate.

283 Offense Level Computations

284 The 1997 edition of the Guidelines Manual has been used in this case.

285 Count One is a conspiracy count which charges three object offenses, as follows: bank fraud, Title
286 18 U.S.C. §1344; transportation of stolen vehicles, Title 18 U.S.C. §2312; and sale of stolen
287 vehicles, Title 18 U.S.C. §2313. Pursuant to §1B1.2(d), a conviction on a count charging a
288 conspiracy to commit more than one offense shall be treated as if the defendant had been convicted
289 on a separate count of conspiracy for each offense. However, pursuant to §3D1.2(d), Application
290 Note 6, counts are to be grouped together when the offense level is determined largely on the basis
291 of the total amount of harm or loss. Guidelines specifically covered by subsection (d) includes
292 §2B1.1, Theft, and §2F1.1, Fraud. Pursuant to Application Note 6, counts involving offenses to
293 which different offense guidelines apply are grouped together under subsection (d), if the offenses
294 are of the same general type and otherwise meet the criteria for grouping under this subsection. In
295 such cases, the guideline that results in the highest offense level is used. This officer determined that
296 the three counts of conspiracy qualify for grouping under subsection (d). The applicable guideline
297 for the violations of Title 18 U.S.C. §1344, is §2F1.1. The applicable guideline for the violation of
298 Title 18, U.S.C. §2312 and §2313 is §2B1.1. This officer determined the application of each of the
299 guidelines resulted in the same offense level, therefore, either guideline can be utilized.

300 Count I and Stipulated Offenses: -- Conspiracy to Defraud the Government - Bank
301 Fraud/Transportation/Sale of Stolen

302 **Base Offense Level:** The United States Sentencing Commission Guideline for
303 violation of Title 18 U.S.C. §371 is found in U.S.S.G. §2X1.1, which states that the
304 base offense level is the offense level, plus any adjustments, from the guideline from

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305 the substantive offense. The most applicable guideline for the conspiracy to violate
306 Title 18 U.S.C. §1344, §2312, and §2313 is §2B1.1, Larceny, Embezzlement and
307 Other Forms of Theft, which provides a base offense level of four. 4

308 **Specific Offense Characteristics:** Pursuant to §2B1.1(b)(1), if the loss exceeded
309 \$100, increase the offense level according to the table provided. Pursuant to §1B1.3,
310 Relevant Conduct, in the case of jointly undertaken criminal activity, the offense
311 level is determined on the basis of all reasonably foreseeable acts and omissions of
312 others in furtherance of the jointly undertaken criminal activity. The evidence
313 suggests the defendant not only participated jointly in the criminal activity, but also
314 supervised the activities of the other participants and actually recruited some of the
315 other participants into the schemes. Originally, 9 vehicles, valued at \$137,090 were
316 fraudulently obtained by the defendant, along with his codefendants, and sold for the
317 profit of Ten Four Auto Sales. The second set of four cars, also fraudulently
318 obtained, were valued at \$94,910. The value of the 13 vehicles, which were obtained
319 by fraud, was \$231,910, and the total amount of the fraudulent checks deposited for
320 the scheme was \$333,200. The defendant is held accountable for the full value of the
321 vehicles, as he refined the original fraud scheme, participated in the purchase of all
322 13 vehicles, and participated in the attempted sale of all of the vehicles. This officer
323 also received information from the government and the investigating case agent that
324 the defendant participated in the above fraudulent activities by helping his partners
325 open bank accounts in the name of Avita Auto Sales or Ten Four Auto Sales, thus
326 involving both Liberty Federal Bank and Bank of America in the fraud scheme. The
327 total loss, intended and foreseeable was \$624,110, Therefore, pursuant to
328 2B1.1(b)(1)(M), if the loss exceeded \$500,000 the base offense level is increased by
329 twelve. 12

330 **Specific Offense Characteristics:** Pursuant to §2B1.1(b)(4)(A), if the offense
331 involved more than minimal planning, increase by two levels. Pursuant to §1B1.1,
332 Application Note 1(f), more than minimal planning means more planning than is
333 typical for commission of the offense in a simple form. Furthermore, it is deemed
334 present in any case involving repeated acts over a period of time, unless it is clear
335 that each instance was purely opportune. The offense involved the setting up of two
336 dealerships, the obtainment of fraudulent cashier's checks to deposit in bank accounts
337 opened in the name of the dealerships, the fraudulent purchase of the vehicles on two
338 occasions, the obtainment of lots to store 13 vehicles, and steps taken to sell the
339 stolen vehicles. Pursuant to §1B1.3, Relevant Conduct, in the case of jointly
340 undertaken criminal activity, the application of the guidelines, including specific
341 offense characteristics such as more than minimal planning, is determined on the
342 basis of all reasonably foreseeable acts and omissions of others in furtherance of the

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343 criminal activity. The defendant developed the scheme and recruited others to help
344 him refine the scheme and to carry out the scheme. Therefore, a two- point increase
345 is appropriate. 2

346 **Specific Offense Characteristics:** Pursuant to §2X1.1(b)(2), if a conspiracy,
347 decrease by three levels, unless the defendant or coconspirators completed all acts
348 believed necessary for the successful completion of the substantive offense. The
349 defendants did take all the necessary steps to complete the fraud; therefore, there is
350 no decrease in the offense level. 0

351 **Victim-Related Adjustments:** None. 0

352 **Adjustments for Role in the Offense:** The scheme was organized by Defendant
353 Omari, and possibly Defendant Rihani. The defendant recruited Defendants Farraj,
354 Atoom, and Nubani into the scheme, and partnered with Defendant Rihani and "Joe"
355 to create fraudulent cashier's checks in furtherance of the present offense. Mr. Omari
356 was involved in all aspects of the present offense. The evidence suggests, and by Mr.
357 Omari's own admission proves, that he held a supervisory role over at least five
358 participants. Therefore, pursuant to guideline §3B1.1(a) and §3B1.2, the offense
359 level is increased by four levels. 4

360 **Adjustments for Obstruction of Justice:** Pursuant to guideline 3C1.1, Obstructing
361 or Impeding the Administration of Justice, if the defendant willfully obstructed or
362 impeded, or attempted to obstruct or impede, the administration of justice during the
363 investigation, prosecution, or sentencing in the instance offense, the offense level is
364 increased by two levels. This officer has not received any information to suggest that
365 the defendant did obstruct or impede any judicial process in the instant offense.
366 Therefore, any increase is not warranted. 0

367 **Adjusted Offense Level (Subtotal):** 22

368 **Adjustment for Acceptance of Responsibility:** The defendant has clearly
369 demonstrated acceptance of responsibility for his offense. Through his plea
370 agreement, the defendant did admit to the conduct comprising the offense of
371 conviction. He admits to his role as an organizer and leader in the present offense,
372 and that he should be held accountable for any loss or damages that may have
373 occurred during the commission of the present offense. He has cooperated with the
374 government by providing complete information concerning his own involvement in
375 the offense in a timely manner, and by notifying authorities of his intention to enter
376 a plea of guilty in a timely manner. Therefore, the defendant does qualify for a two-

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377	level decrease in accordance with guideline 3E1.1(a), Acceptance of Responsibility	
378	and an additional one level decrease pursuant to 3E1.1(b)(1)(2).	-3
379	Total Offense Level:	19
380	Chapter Four Enhancements: None.	0
381	Total Offense Level:	19

382 **PART B. DEFENDANT'S CRIMINAL HISTORY**

383 Juvenile Adjudication (s)

384 The defendant avows he has no juvenile arrest history. Since the defendant was born and reared in
385 Amman, Jordan, it is difficult to verify his statement.

386 Adult Criminal Conviction(s)

387	Date of	Conviction/Court	Date Sentence	Guideline	Pnt
388	<u>Arrest</u>		<u>Imposed/Disposition</u>		
389	1/30/92	Count I: Deceptive	3/20/92: Pled Guilty,	4A1.1	1
390	(Age: 27)	Practices, Cook County	Honorable Cyril J.		
		Circuit Court, Fifth District,	Watson, Six Months		
		CR#92500085501	Supervision;		
			09/18/92: Supervision		
			Term Discharged,		
			Honorable Daniel G.		
			Welter		

391 According to the arrest record, the defendant attempted to steal a pair of shoes from a Sears
392 Department Store by writing a check, the check being written on a Heritage Bank account, for the
393 amount of \$88.76, knowing that it would not be paid as such. The check was fraudulent. The
394 defendant was arrested and pled guilty to the above Class A misdemeanor. The defendant agrees
395 with the details contained in the arrest report. He does not deny his involvement in this offense.

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396 Criminal History Computation

397 The criminal convictions above result in a subtotal criminal history score of one. The total of the
398 criminal history points is one. According to the Sentencing Table at U.S.S.G. Chapter 5, Part A, 1
399 criminal history point establishes a criminal history category of I.

400 PART C. OFFENDER CHARACTERISTICS

401 Personal and Family Data

402 The following information was gathered through interviews with the defendant. The information
403 was not corroborated by his family members since this officer was unable to locate them. The
404 defendant has no family in the state of Illinois. A home visit was not conducted since he nor his
405 wife, Hindia Abdou, reside at his last listed address. His mother, who did live with him and his
406 family, moved to California subsequent to the defendant's arrest. The defendant could not provide
407 this officer with complete information as to familial addresses or complete phone numbers.

408 The defendant was born in Amman, Jordan on September 6, 1964 to Adnan Omari and Nabila
409 Qutshiat. Maher was the second son born, preceded by his brother Manal, and followed by his
410 younger brother Maiem, his sister Rolan, and the his youngest sister Manor. His father has been a
411 "Star Marshal" or Chief of the North Side Jordanian Army for over 25 years. His mother has always
412 been a home maker. Defendant Omair describes his parents as mentally and physically abusive, he
413 felt "jailed" by his fathers controlling nature. His father, acted as though Maher and his siblings
414 were soldiers in his army. If the defendant did not accomplish some task he was assigned by his
415 father or mother, he was punished as a soldier who was insubordinate to his commanding officer.
416 Mr. Omari's mother was mentally abusive toward her children. The physical and mental abuse
417 continued throughout his childhood and into his adulthood. His parents were divorced in the late
418 1980s, and his mother moved to the United States to be near him.

419 Mr. Omari related the following information to explain why he immigrated to the United States. By
420 1983, the defendant was a Lieutenant in the Jordanian Army Police Force. He was pressured to
421 pursue a military type of career by his father, and was automatically groomed for such careers in the
422 Jordanian school system. During his military tenure, the defendant met and fell in love with his
423 father's third cousin, Iaaiman Omari. The two were strictly forbidden to see each other, and she was
424 betrothed to another man in her family's village. Mr. Omari wanted to stop the marriage and devised
425 a scheme to kidnap his beloved. Mr. Omari lied to his military colleagues about an assignment to
426 track down and arrest a fugitive murderer. The defendant convinced his unit that they must surround
427 Iaaiman Omari's village, where this murderer was hiding. Mr. Omari implemented his plan on the
428 day of Ms. Omari's wedding. The defendant was successful in keeping the unsuspecting groom
429 from re-entering the village, but was not so successful at keeping his father from finding out about

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430 this scheme. The defendant did not know his father was invited to, and was in attendance for the
431 wedding ceremony. Consequently, before the defendant could carry out the rest of his plan, his
432 father was advised of the road block and its alleged purpose. Mr. Omari was taken into custody by
433 his own unit, upon orders from his father, to be incarcerated pending a court marshal. Defendant
434 Omari's family was dishonored by his actions, and so was Iaaiams' family. Since many members
435 of the military court feared his father, the court marshal did not find sufficient evidence of
436 misconduct on the defendant's part, and the charges against him were dismissed. Ms. Omari's
437 family was enraged, and would settle for nothing less than his death.

438 The defendant's father banished him from the family home. General Omari also threatened his son
439 with death should he attempt to return to their village. The defendant's commander and friend,
440 aware of the contract on Defendant Omari's life, and the threats made by his father, used his
441 influence to secure permission for the defendant to participate in an educational and training program
442 offered by the United States government. This agreement would allow Defendant Omari to attend
443 the University of Tennessee at Martin, in Martin, Tennessee. He would be safely out of the country.

444 In January of 1997, the defendant married Hindia (nee: Abdou). They share one daughter, Amira.
445 They did share a home in Chicago, Illinois, but since the defendant's arrest, Mrs. Omari has filed
446 for a divorce and moved to Detroit, Michigan. This information was relayed through Sam Abdou,
447 Hindia Abdou's brother. Mr. Omari admits that he does not offer any financial support for Amira.

448 It should be noted that despite the defendant's description of his father as abusive and threatening,
449 he advised the pretrial officer compiling his pretrial report, that he visited his father in Jordan in
450 1989. Without an avenue available to verify Mr. Omari's claims, and given his contradictory
451 statements to his pretrial officer, it is difficult to assess the truthfulness of the above scenario.

452 Physical Condition

453 Maher Omari is a Jordanian male who stands 5'8" tall, and weighs 215 pounds. He has hazel colored
454 eyes and brown hair. He reports having no scars or tattoos. He describes himself as healthy and in
455 excellent physical condition.

456 Mr. Omari advised he has no family history of serious physical ailments or diseases. He has never
457 sought treatment for, been treated for, or hospitalized for any physical condition. He has no need
458 for specialized medications or treatment while incarcerated.

459 Mental and Emotional Health

460 The defendant and his family deny any history of mental or emotional health related issues.
461 Defendant Omari denies ever seeking treatment for, or being hospitalized for any mental health

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462 issues. Throughout this officer's interviews with the defendant, he appeared to demonstrate
463 appropriate affect and orientation, and was very articulate. When asked if he needed an interpreter,
464 he declined. He appeared to understand the questions asked and there content, giving appropriate
465 answers that were consistent with the context of each question.

466 The defendant is very concerned about further disgracing his family with his involvement in the
467 present offense. He does admit that his family has been very supportive despite being in different
468 parts of the country. He denies any need for counseling during this presentence phase.

469 Substance Abuse

470 The defendant denies any history of alcohol or drug abuse within his family, and further denies any
471 personal drug or alcohol use. He has never taken any prescription medication.

472 Education and Vocational Skills

473 The defendant attended primary and secondary educational institutions in Jordon(verified). He
474 attended the Jordanian Military Academy, and graduated from the Jordanian Institution of Law
475 (unverified) His goal was to work security in the private sector, but by Jordanian custom, he was
476 forced to join the Jordanian Army (unverified).

477 In late 1983, early 1984, the defendant attended the University of Tennessee at Martin with
478 permission of the United States Government; the University Military Science program, and the
479 Jordanian Army. He only participated in one semester of curricula, then dropped out, and absconded
480 from the program, and the Jordanian Military, completely. He is still considered A.W.O.L.(Away
481 Without Leave) by the Jordanian Army, and knows he will be executed should he ever return to
482 Jordan (unverified).

483 Employment Record

484 The following information has not been verified. As of this submission, verification of employment
485 information has not been received from the Ford Motor Company.

486 October 1997 to January 1998

487 The defendant alleges he worked with the Ford Motor Company in Detroit, Michigan as a
488 transmission collector, earning \$1,800 monthly.

489 Prior to the above employment, Mr. Omari alleges he sold candy on the streets of Chicago, Illinois,
490 and earned an average of \$500 monthly.

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491 Financial Condition: Ability to Pay

492 Assets 0.00

493 Cash

494 Cash on Hand 0.00

495 Checking Accounts (See Note A) 575.00

496 Savings Account(See Note B) 0.00

497 Subtotal: \$575.00

498 Total Assets: \$575.00

499

500 NET WORTH: \$575.00

501 Monthly Cash Flow 0.00

502 Income 0.00

503 Defendant's Net Salary 0.00

504 Total Income: \$0.00

505 Necessary Monthly Living Expenses

506

507 Credit Card(s) (American Express Optimum) 1,000.00

508

509 Total Expenses: \$1,000.00

510 NET MONTHLY CASH FLOW: -\$1,000.00

511 Note A: The defendant reported having a checking account with Fidelity Bank in Detroit, Michigan
512 with a balance of \$500.00. He also reported having a savings account with them that has a zero
513 balance (unverified).

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514 Note B: The defendant reported having a checking account with Comerca Bank in Detroit, Michigan
515 with a balance of \$75.00. His savings account has a zero balance (unverified).

516 Analysis

517 The defendant completed and signed a personal financial statement. It should be noted that as of this
518 submission, the defendant's financial statements have not been verified. Mr. Omari claims no assets.
519 He claims he has no other debts other than the ones listed above, and that the \$575.00 he has in his
520 checking and savings accounts is the only money he possesses. Due to Mr. Omari's incarceration
521 in the present offense, he has no income or living expenses. Based on the information provided, the
522 defendant could not make a lump sum payment toward restitution or a fine. Although the defendant
523 is not facing a lengthy period of incarceration, he may still contribute monthly payments up to
524 \$500.00 per year towards restitution and/or fine through the Inmate Financial Responsibility
525 Program, with any remaining balance to be paid in equal monthly installments during supervised
526 release.

527 **PART D. SENTENCING OPTIONS**

528 Custody

529 **Statutory Provisions:** The maximum term of imprisonment for Count One is Five years, pursuant
530 to 18 U.S.C. § 371.

531 **Guideline Provisions:** Based on a total offense level of 19 and a criminal history category of I, the
532 guideline range for imprisonment is 30 to 37 months.

533 Impact of the Plea Agreement

534 A written plea agreement, entered into by the defendant and his attorney exists in this case, and a
535 copy is attached to this report. This officer concurs with the guideline calculations contained in the
536 plea agreement. According to the plea agreement, the defendant agrees that he will fully and
537 truthfully cooperate with the government in any matter which he is called upon to cooperate. The
538 defendant agrees to provide complete and truthful information in any investigation and pretrial
539 preparation, and complete and truthful testimony before any grand jury and United States District
540 Court proceeding, and any related civil administration or court proceedings. The defendant agrees
541 to postpone his sentencing until after the conclusion of the prosecutions in which he is called to
542 testify. At the time of sentencing, the government shall make known to the sentencing judge the
543 extent of the defendant's cooperation, and, assuming the defendant's full and truthful cooperation,
544 shall move the Court, pursuant to U.S.S.G. § 5K1.1 and Title 18, United States Code § 3553(e), to
545 depart from the applicable sentencing guidelines range and statutory minimum sentence, and to

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impose the specific sentence agreed to by the parties as outlined. The plea agreement is governed, in part, by Federal Rule of Criminal Procedure 11(e)(1)(C). That is, the parties have agreed that the sentence imposed by the Court shall include a term of imprisonment in the custody of the Bureau of Prisons, and that the term imposed shall be two-thirds of the low end of the applicable guideline range. Other than the agreed upon term of incarceration, the parties have agreed that the Court remains free to impose the sentence it deems appropriate.

Supervised Release

Statutory Provisions: If a term of imprisonment is imposed on Count One, the court may impose a term of supervised release of not more than three years, pursuant to 18 U.S.C. §3583(b)(2).

Guideline Provisions: The guideline range for a term of supervised release is at least two years but not more than three years, pursuant to U.S.S.G. §5D1.2(a)(2). If a sentence of imprisonment of one year or less is imposed, a term of supervised release is not required but is optional, pursuant to U.S.S.G. §5D1.1(b). Supervised release is required if the court imposes a term of imprisonment of more than one year or when required by statute, pursuant to U.S.S.G. §5D1.1(a).

Probation

Statutory Provisions: The defendant is eligible for not less than one nor more than five years probation by statute, pursuant to 18 U.S.C. §3561(b)(1). Because the offense is a felony, one of the following must be imposed as a condition of probation unless extraordinary circumstances exist: a fine, restitution, or community service, pursuant to 18 U.S.C. §3563(a)(2).

Guideline Provisions: Because the applicable guideline range is in Zone D of the Sentencing Table, the defendant is not eligible for probation, pursuant to U.S.S.G. §5B1.1(a).

Fines

Statutory Provisions: The maximum fine is \$250,000, pursuant to 18 U.S.C. §3571(D), which states that any person deriving pecuniary gain from the offense, or if the offense resulted in pecuniary loss to a person other than the defendant, the defendant may be fined not more than \$250,000 for a felony offense or not more than the greater of twice the gross gain or twice the gross loss, whichever amount is greater. A special assessment of \$100 is mandatory, pursuant to 18 U.S.C. §3013.

Guideline Provisions: The fine range for the instant offense is from \$6,000 to \$60,000 pursuant to U.S.S.G. §5E1.2(c)(3).

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576 Subject to the defendant's ability to pay, the court may include in the fine an amount that is at least
577 sufficient to pay the cost to the government of any imprisonment, probation, or supervised release,
578 pursuant to U.S.S.G. §5E1.2(I). The most recent advisory from the Administrative Office of the
579 United States Courts, dated March 28, 1997, suggests a monthly cost of \$1,910.17 to be used for
580 imprisonment, a monthly cost of \$1,186.25 for community confinement, and a monthly cost of
581 \$217.18 for supervision.

582 Restitution

583 Statutory Provisions: Pursuant to 18 U.S.C. §3663 and the Mandatory Victim Restitution Act, full
584 restitution must be ordered in this case. The total loss to Bank of America, located at 200 West
585 Jackson, Attn. Investigation, 8th Floor, Chicago, Illinois, 60606 is \$42,000. Pursuant to 18 U.S.C.
586 §3663, restitution is due immediately. Any unpaid restitution shall become a condition of probation
587 or supervised release, pursuant to 18 U.S.C. §3663(g).

588 Guideline Provisions: In accordance with the provisions of U.S.S.G. §5E1.1, restitution shall be
589 ordered.

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590 **FACTORS THAT MAY WARRANT DEPARTURE**

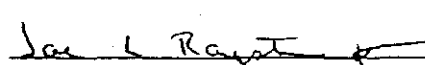
591 Presentation of information in this section does not necessarily constitute a recommendation by the
592 probation officer for a departure.

593 Pursuant to the written plea agreement, at the time of sentencing, the government shall make known
594 to the judge the extent of the defendant's cooperation, and shall move the Court, pursuant to § 5K1.1
595 and 18 U.S.C. § 3553(e), to depart from the applicable sentencing guideline range minimum. The
596 plea agreement is governed, in part, by the Federal Rule of Criminal Procedure 11(e)(1)(C), in that
597 the parties have agreed that the sentence imposed by the Court shall include a term of imprisonment
598 in the custody of the Bureau of Prisons of two-thirds of the low end of the applicable guideline
599 range. Other than the agreed term of incarceration, the parties have agreed that the Court remains
600 free to impose the sentence it deems appropriate.

601 Respectfully submitted,
602 William T. Foster
603 Chief U. S. Probation Officer

604 by 
605 Isabelle Dominguez
606 U. S. Probation Officer

607 Approved:

608 
609 Joe Royston
610 Supervising U. S. Probation Officer

611 ID/id

612 Attachments: Government's Version
613 (Including Victim Impact Statement)
614 Defendant's Version
615 Plea Agreement

YK. UT



U.S. Department of Justice

United States Attorney
Northern District of Illinois

Vilija A. Bilaisis
Assistant United States Attorney

Dirksen Federal Building
219 South Dearborn Street, Room 500
Chicago, Illinois 60604

Direct Line: (312) 353-3148

August 23, 1999

The Honorable Walter Durling
Executive Office of Immigration Review
Immigration Court
York, Pennsylvania 17402

Re: Maher Omari
A76-766-772

Dear Judge Durling:

I am writing at the request of Maher Omari, whose immigration case is currently pending before you. I was the prosecuting attorney in the criminal case entitled United States v. Ali Iysheh et al., 97 CR 460, brought in the Northern District of Illinois, in which Mr. Omari was charged in all counts of a ten-count indictment with conspiracy to commit bank fraud, transport stolen motor vehicles interstate, and receive, possess, conceal, store, and sell stolen motor vehicles, as well as with bank fraud, wire fraud, interstate transportation of stolen motor vehicles, and receipt, concealment, possession, and storage of stolen motor vehicles, in violation of Title 18, United States Code, Sections 371, 1344, 1343, 2312, and 2313. Mr. Omari pleaded guilty to the conspiracy count, and agreed to cooperate against his co-defendants. To that end he was extensively debriefed by FBI agents and myself. Paragraph 5 of his plea agreement, which I will send under separate cover, reflects these debriefings. Mr. Omari was never called upon to testify, as his only remaining co-defendant before the Court agreed to plead guilty, due at least in part to Mr. Omari's willingness to testify against him.

Pursuant to the plea agreement, at Maher Omari's sentencing the government moved the Court to depart from the sentencing guidelines range and to impose an agreed sentence of two-thirds of the low end of the sentencing guidelines range. The government also moved to dismiss the remaining counts of the indictment. The Court granted the government's motions.

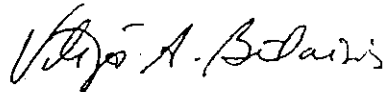
The last defendant in case 97 CR 460, Yousef Apuzaitoun,

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NORTHERN DISTRICT OF ILLINOIS

remains a fugitive. Mr. Omari has expressed his willingness to continue to cooperate and to testify against Mr. Apuzaitoun if and when he is apprehended.

Very truly yours,

SCOTT R. LASSAR
United States Attorney

By: 
VILIJA A. BILAISIS
Assistant United States Attorney

cc: Maureen Gaffney, INS Trial Attorney
Paul Wagner, Attorney for Maher Omari

U. S. Department of Justice
Immigration and Naturalization Service

Notice of Referral to Immigration Judge

		Date	7/26/99
		A-File	76766772
Name	OMARI, Maher	Country of Citizenship	Jordan
Place and Manner of Arrival	NYC, by air	Date of Arrival	10/17/89

To immigration judge:

- ☐ 1. The above-named alien has been found inadmissible to the United States and ordered removed pursuant to section 235(b)(1) of the Immigration and Nationality Act (Act). A copy of the removal order is attached. The alien has requested asylum and/or protection under the Convention against Torture and the matter has been reviewed by an asylum officer who has concluded the alien does not have a credible fear of persecution or torture. The alien has requested a review of that determination in accordance with section 235(b)(1)(B)(iii)(III) of the Act and 8 C.F.R. §§ 208.30(e) and (f).
- ☐ 2. The above-named alien arrived in the United States as a stowaway and has been ordered removed pursuant to section 235(a)(2) of the Act. The alien has requested asylum and/or withholding of removal under the Convention against Torture and the matter has been reviewed by an asylum officer who has concluded the alien does not have a credible fear of persecution or torture. The alien has requested a review of that determination in accordance with section 235(b)(1)(B)(iii)(III) of the Act.
- ☐ 3. The above-named alien arrived in the United States in the manner described below and has requested asylum and/or withholding of removal under the Convention against Torture. The matter is referred for a determination in accordance with 8 CFR 208.2(b). Arrival category (check one):
- | | | |
|---|--|---|
| <input type="checkbox"/> Crewmember/applicant | <input type="checkbox"/> Crewmember/refused | <input type="checkbox"/> Crewmember/landed |
| <input type="checkbox"/> Crewmember/violator | <input type="checkbox"/> VWPP/applicant | <input type="checkbox"/> VWPP/violator |
| <input type="checkbox"/> 235(c) order | <input type="checkbox"/> S-visa nonimmigrant | <input type="checkbox"/> Stowaway: credible fear determination attached |
- ☐ 4. The above-named alien has been ordered removed by an immigration officer pursuant to section 235(b)(1) of the Act. A copy of the removal order is attached. In accordance with section 235(b)(1)(C) of the Act, the matter is referred for review of that order. The above-named alien claims to be (check one):
- | | |
|---|---|
| <input type="checkbox"/> a United States citizen | <input type="checkbox"/> a lawful permanent resident alien |
| <input type="checkbox"/> an alien granted refugee status under section 207 of the Act | <input type="checkbox"/> an alien granted asylum under section 208 of the Act |
- ☐ 5. The above-named alien has been ordered removed pursuant to section 238(b) of the Act, or the INS has reinstated a prior exclusion, deportation, or removal order of the above-named alien pursuant to section 241(a)(5) of the Act. A copy of the removal order and, if applicable, the notice of reinstatement, are attached. The alien has expressed fear of persecution or torture and the claim has been reviewed by an asylum officer who has concluded the alien **does not** have a reasonable fear of persecution or torture. The alien has requested a review of that determination in accordance with 8 C.F.R. §§ 208.31(f) and (g).
- ☒ 6. The above-named alien has been ordered removed pursuant to section 238(b) of the Act, or the INS has reinstated a prior exclusion, deportation, or removal order of the above-named alien pursuant to section 241(a)(5) of the Act. A copy of the removal order and, if applicable, the notice of reinstatement, are attached. The alien has expressed fear of persecution or torture and the claim has been reviewed by an asylum officer who has concluded the alien **has** a reasonable fear of persecution or torture. The matter has been referred for a determination in accordance with 8 C.F.R. §§ 208.31(e).

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OF IMMIGRATION REVIEW
IMMIGRATION COURT
NEW YORK, PENNSYLVANIA

U.S. Department of Justice
Immigration and Naturalization Service

Final Administrative Removal Order

**FINAL ADMINISTRATIVE REMOVAL ORDER
UNDER SECTION 238(b) OF THE
IMMIGRATION AND NATIONALITY ACT**

BOP No.: 79493079
File No: 076766772
Date:


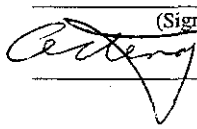
To: OMARI, Maher
Address: BOP Allenwood Low Fci, LSCI-ALLENWOOD PO BOX 1500 WHITE DEER PA 17887
(Number, street, city, state and ZIP code)

Telephone: N/A
(Area code and phone number)

ORDER

Based upon the allegations set forth in the Notice of Intent to Issue a Final Administrative Removal Order and evidence contained in the administrative record, I, the undersigned Deciding Service Officer of the Immigration and Naturalization Service, make the following findings of fact and conclusions of law. I find that you are not a citizen or national of the United States and that you were not lawfully admitted for permanent residence. I further find that you have a final conviction of an aggravated felony as defined in section 101(a)(43) of the Act, 8 U.S.C. 1101(a)(43), and are ineligible for any relief from removal that the Attorney General may grant in an exercise of discretion. I further find that the administrative record established by clear, convincing, and unequivocal evidence that you are deportable as an alien convicted of an aggravated felony pursuant to section 237(a)(2)(A)(iii) of the Act, 8 U.S.C. 1227(a)(2)(A)(iii). By the power and authority vested in the Attorney General and in me as the Attorney General's delegate under the laws of the United States, I find you deportable as charged and order that you be removed from the United States to

or to any alternate country prescribed in section 241 of the Act.


(Signature of Authorized INS Official)

District Director
(Title of official)
Philadelphia, PA
(Date and office location) 5-4-99

Petition for review: ☐ Waived by respondent.
☐ Reserved by respondent.

Certificate of Service

I served this FINAL ADMINISTRATIVE REMOVAL ORDER upon the above named individual.

5/10/99 0830

Allenwood, PA; Personal Service

(Date, time, place and manner of service)

D. Bunks

For STREETZ, Damian IHP Officer

(Signature and title of officer)

Attachment to Final Administrative Removal Order (I-851A)

Re: A 76 766 772 Maher OMARI

I have considered all the information related to the Administrative Removal proceedings in your case. You have submitted a written response to the Notice of Intent to Issue a Final Administrative Removal Order within the time required. The Notice of Intent was personally served on January 26, 1999, and your response was due within 30 calendar days of service of extension dated February 3, 1999.

You have requested that the Notice of Intent to Issue a Final Administrative Removal Order be withdrawn so that you may pursue a waiver under section 212(h) of the Immigration and Nationality Act (hereinafter "INA") and adjustment of status before the Immigration Judge. Pursuant to section 238(b)(5) of the INA, "*[n]o alien described [in section 238] shall be eligible for any relief from removal that the Attorney General may grant in the Attorney General's discretion.*" 8 U.S.C., Section 1228(b)(5) (1997)(emphasis added). Inasmuch as a waiver under section 212(h) of the INA is a discretionary form of relief, you are statutorily ineligible to apply for and receive such a waiver. In addition, it should be noted that you failed to present evidence establishing that you are the beneficiary of an approved alien relative petition, thus failing to demonstrate prima facie eligibility for adjustment of status under section 245 of the INA.

In recognizing your request for relief under the Convention Against Torture Act and section 241(b)(3)(B) of the INA [restriction on removal], your case will be referred to an Asylum Officer for adjudication of your claim. Nevertheless, I find that your alienage and the charge of removability under section 237(a)(2)(A)(iii) of the INA have been sustained by clear, convincing and unequivocal evidence. Accordingly, this Administrative Order is deemed to be final.

U.S. Department of Justice

Immigration and Naturalization Service

Record of Deportable/Inadmissible Alien

Family Name (CAPS) OMARI, MAHER		First	Middle	Sex Male	Hair BLACK	Eyes BROWN	Complexion MEDIUM
Country of Citizenship JORDAN	Passport Number and Country of Issue	File Number 076766772		Height 5'8"	Weight 250 Lbs	Occupation See #1	
U.S. Address BOP Allenwood Low Fci, LSCI-ALLENWOOD WHITE DEER PA				Scars and Marks None Visible			
Date, Place, Time, and Manner of Last Entry 10/17/1989 See #2		Passenger Boarded at		F.B.I Number 183710PA3		<input type="checkbox"/> Single <input type="checkbox"/> Divorced <input checked="" type="checkbox"/> Married <input type="checkbox"/> Widow(er) <input type="checkbox"/> Separated	
Number, Street, City, Province (State) and Country of Permanent Residence 622 WEST BRENTWOOD ST. DETROIT MI US 48203				Method of Location/Apprehension			
Date of Birth 9/6/1964	Date of Action 1/19/1999	Location Code ALLENWOOD PA		(At/Near) ALLENWOOD PA		Date & Hour 1/19/1999	
City, Province (State) and Country of Birth AMMAN JORDAN		AR <input type="checkbox"/>	Form (Type & No.) <input type="checkbox"/> Lifted <input type="checkbox"/> Not Lifted	By STREETZ, Damian			
NIV Issuing Post and NIV Number		Social Security Account Name		Status at Entry Non-Immigrant		Status When Four I - Incarcerated	
Date Visa Issued	Social Security Number 408-43-8417			Length of Time Illegally in U.S.			

Immigration Record	Criminal Record SEE NARRATIVE
Name, Address, and Nationality of Spouse (Maiden name, if Appropriate) OMARI, Hindia JORDAN Abdou	
Number & Nationality of Minor Children Children	
Father's Name, Nationality, and Address, if Known OMARI, Adnan JORDAN	Mother's Present and Maiden Names, Nationality, and Address, if Known QUTSHIAT, Nabila JORDAN
Monies Due/Property in U.S. Not in Immediate Possession	Fingerprinted <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	INS Systems Checks CIS SENTRY
Name and Address of (Last) (Current) U.S. Employer	Type of Employment
	Salary \$ hr.
	Employed From: To:

Narrative (Outline particulars under which alien located/apprehended. Include details, not shown above, re: time, place, manner of last entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior).

BOP# 79493079 PRD: 6-22-99

AKA: TALAL AL OMARI, Maher Adnan OMARI, Muhir OMARI, Maher A

1) CONVICTION: 10/2/1998 NORTH. DIST., ILLINOIS, 21 USC 846 SEC 841-851

IMMIGRATION RECORD:

Subject was admitted to the United States as an non-immigrant.

CRIMINAL RECORD:

On October 2, 1998, Subject was convicted in the United States District Court at the Northern District of Illinois for the offense of Conspiracy to defraud the Government in violation of Title 18, United States code, section 371.

Subject was sentenced to TWENTY(20) Months confinement.

Subject has no U.S. military service or benefits pending.

Subject has family ties to the U.S.

Subject has an appeal filed for the reduction of sentence not for his conviction.

Subject has no lawyer at this time.

Alien has been advised of communication privileges

STREETZ, Damian

IHP Officer

(Date/Initials)

(Signature and Title of INS Official)

Distribution:

Received (Subject and Documents) (Report of Interview)

Officer: STREETZ, Damian IHP Officer

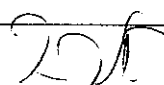
on: 1/19/1999 at 10:43:40 AM (time)

Disposition: AR

Examining Officer:

Bryan L. Miller SFA

U.S. Department of Justice
Immigration and Naturalization ServiceContinuation Page for Form **I-213**

Alien's Name OMARI, Maher	File Number 076766772	BOP Number 79493079	Date
<p>From #1 Occupation Not Reported</p> <p>From #2 CHICAGO-O'HARE INTERNATIONAL AIRPORT, CHICAGO IL PLANE</p>			
Signature 		Title IHP Officer	

2 of 2 Pages

U.S. Department of Justice
Immigration and Naturalization Service

Warrant of Removal/Deportation

File No: A37 647 503

Date: 01-05-00

To any officer of the United States Immigration and Naturalization Service:

Celio Enrique

DELACRUZ-Tarjeda

(Full name of alien)

who entered the United States at New York, N.Y. on April 17, 1983
(Place of entry) (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

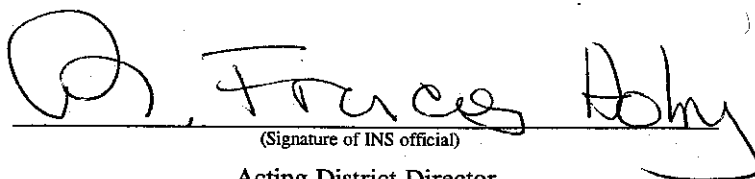
- ☐ an immigration judge in exclusion, deportation or removal proceedings
- ☐ a district director or a district director's designated official
- ☒ the Board of Immigration Appeals
- ☐ a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:

Section(s): 237(a)(2)(A)(iii)
237(a)(2)(B)(i)

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of:

the appropriation, "Salaries and Expenses Immigration and Naturalization Service 2000," including the expense of an attendant if necessary.



(Signature of INS official)

Acting District Director

(Title of INS official)

01-05-00/Philadelphia, Pa.

(Date and office location)

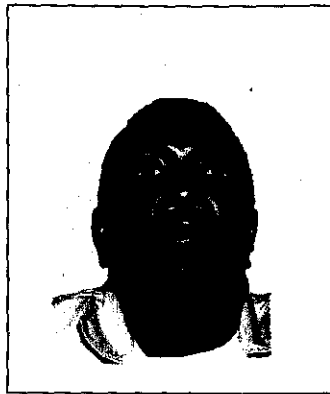
To be completed by Service officer executing the warrant:

Name of alien being removed:

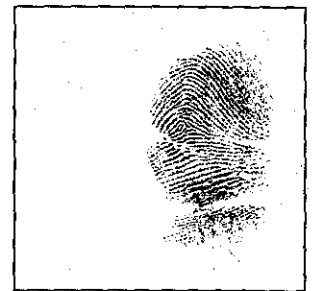
Celio Enrique

DELACRUZ-Tarjeda


Port, date, and manner of removal: New York, NY (JFK); February 10, 2000; American 635

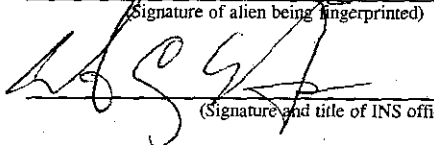


Photograph of alien removed




Right index fingerprint of alien removed


(Signature of alien being fingerprinted)

 INS
(Signature and title of INS official taking print)

Departure witnessed by:

 INS
(Signature and title of INS official)

If actual departure is not witnessed, fully identify source or means of verification of departure:

If self-removal (self-deportation), pursuant to 8 CFR 241.7, check here. ☐

Departure Verified by:

(Signature and title of INS official)

U.S. Department of Justice
Immigration and Naturalization Service

Warning to Alien Ordered Removed or Deported

File No: A37 647 503

Date: 01-05-00

Celio Enrique

DELACRUZ-Tarjeda

Alien's full name: _____

In accordance with the provisions of section 212(a)(9) of the Immigration and Nationality Act (Act), you are prohibited from entering, attempting to enter, or being in the United States:

- ☐ For a period of 5 years from the date of your departure from the United States because you have been found deportable under section 237 of the Act and ordered removed from the United States by an immigration judge in proceedings under section 240 of the Act initiated upon your arrival in the United States as a returning lawful permanent resident.
- ☐ For a period of 10 years from the date of your departure from the United States because you have been found:
- ☐ deportable under section 237 of the Act and ordered removed from the United States by an immigration judge in proceedings under section 240 of the Act.
 - ☐ inadmissible under section 212 of the Act and ordered removed from the United States by an immigration judge in proceedings under section 240 of the Act initiated as a result of your having been present in the United States without admission or parole.
 - ☐ deportable under section 241 of the Act and ordered deported from the United States by an immigration judge in proceedings commenced before April 1, 1997 under section 242 of the Act.
 - ☐ deportable under section 237 of the Act and ordered removed from the United States in accordance with section 238 of the Act by a judge of a United States district court, or a magistrate of a United States magistrate court.
- ☐ For a period of 20 years from the date of your departure from the United States because, after having been previously excluded, deported, or removed from the United States, you have been found:
- ☐ inadmissible under section 212 of the Act and ordered removed from the United States by an immigration judge in proceedings under section 240 of the Act.
 - ☐ deportable under section 237 of the Act and ordered removed from the United States by an immigration judge in proceedings under section 240 of the Act.
 - ☐ deportable under section 237 of the Act and ordered removed from the United States in proceedings under section 238 of the Act.
 - ☐ deportable under section 241 of the Act and ordered deported from the United States by an immigration judge in proceedings commenced before April 1, 1997 under section 242 of the Act.
 - ☐ to have reentered the United States illegally and have had the prior order reinstated under section 241(a)(5) of the Act.
- ☒ At any time because you have been found inadmissible or excludable under section 212 of the Act, or deportable under section 241 or 237 of the Act, and ordered deported or removed from the United States, and you have been convicted of a crime designated as an aggravated felony.

After your removal has been effected you must request and obtain permission from the Attorney General to reapply for admission to the United States during the period indicated. You must obtain such permission before commencing your travel to the United States. Application forms for requesting permission to reapply for admission may be obtained by contacting any United States Consulate or office of the Immigration and Naturalization Service. Refer to the above file number when requesting forms or information.

WARNING: Title 8 United States Code, Section 1326 provides that it is a crime for an alien who has been removed from the United States to enter, attempt to enter, or be found in the United States without the Attorney General's express consent. Any alien who violates this section of law is subject to prosecution for a felony. Depending on the circumstances of the removal, conviction could result in a sentence of imprisonment for a period of from 2 to 20 years and/or a fine of up to \$250,000.

(Signature of officer serving warning)

(Title of Officer)

(Location of INS office)



U.S. Department of Justice

For Arw

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

5201 Leesburg Pike, Suite 1300
Falls Church, Virginia 22041

***S-DELACRUZ-TARJEDA, CELIO ENRIQUE**
LSCI ALLENWOOD, P.O. BOX 1500
WHITE DEER, PA 17887-0000

Office of the District Counsel/PHI
1600 Callowhill St., Room 530
Philadelphia, PA 19130

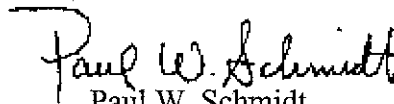
Name: ***S-DELACRUZ-TARJEDA, CELIO ENRIQUE**

A37-647-503

Date of this notice: **11/23/1999**

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Very Truly Yours,


Paul W. Schmidt
Chairman

Enclosure

Panel Members:
ROSENBERG, LORY D.
VACCA, FRED W.
VILLAGELIU, GUS

RECEIVED

DEC 27 1999

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DEC 29 PM 2:57
11106 1000 1000 1000

U.S. Department of Justice
Executive Office for Immigration Review

Decision of the Board of Immigration Appeals

Falls Church, Virginia 22041

File: A37 647 503 - Philadelphia

Date: **NOV 23 1999**

In re: CELIO ENRIQUE DELACRUZ-TARJEDA a.k.a. Celio Delacruz a.k.a. Celio Enrique
Delacruz-Tejeda

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Pro se

CHARGE:

Notice: Sec. 237(a)(2)(A)(iii), I&N Act [8 U.S.C. § 1227(a)(2)(A)(iii)] -
Convicted of aggravated felony

Sec. 237(a)(2)(B)(i), I&N Act [8 U.S.C. § 1227(a)(2)(B)(i)] -
Convicted of controlled substance violation

ORDER:

PER CURIAM. The decision of the Immigration Judge dated May 25, 1999, finding the respondent removable under sections 237(a)(2)(A)(iii) and (a)(2)(B)(i) of the Immigration and Nationality Act, 8 U.S.C. §§ 1227(a)(2)(A)(iii) and (a)(2)(B)(i), determining that the respondent was not eligible for any relief from removal, and ordering that he be removed to the Dominican Republic, is affirmed. The request for oral argument is denied.

On appeal, the respondent contends that the Immigration Judge erred in denying him an opportunity to retain counsel.

We find no merit in the respondent's appeal. The respondent was granted two continuances over the course of 3½ months to find an attorney. We are satisfied that the respondent's right to obtain counsel was complied with and that his removal hearing was fair. See Matter of Santos, 19 I&N Dec. 105 (BIA 1984); Matter of Gutierrez, 16 I&N Dec. 226 (BIA 1977). We further note that the respondent has failed to establish that the presence of counsel would have changed the outcome of his case. See Villanueva-Jurado v. INS, 482 F.2d 886, 888 (5th Cir. 1973).

We also find that the respondent is statutorily ineligible for cancellation of removal pursuant to section 240A(a) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(a), because he has been convicted of an aggravated felony as defined in section 101(a)(43) of the Act, 8 U.S.C. § 1101(a)(43). Since he is in removal proceedings, a waiver of inadmissibility under section 212(c) of the Immigration and Nationality Act, 8 U.S.C. § 1182(c), is not a form of relief that is available. See section 304(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009 ("IIRIRA").

A37 647 503

The respondent argues on appeal that the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214, violates the Constitution because of its retroactive effect. We cannot rule on the constitutionality of laws enacted by Congress. See, e.g., Matter of Fuentes-Campos, Interim Decision 3318 (BIA 1997); Matter of C-, 20 I&N Dec. 529 (BIA 1992). Furthermore, we note that the provisions of AEDPA do not apply to the respondent as his removal proceeding is governed by the IIRIRA.

Accordingly, the appeal is dismissed.

A handwritten signature in black ink, appearing to read "David W. Vento", is written over a horizontal line.

FOR THE BOARD



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

5201 Leesburg Pike, Suite 1300
Falls Church, Virginia 22041

Kascavage, Martin A., Esquire
400 Market Street, Suite 420,
Philadelphia, PA 19106-0000

Office of the District Counsel/PHI
1600 Callowhill St., Room 530
Philadelphia, PA 19130

Name: *S-SALEH, SHERIF KAMEL (09/1999)

A29-734-408

Type of Proceeding: Removal

Date of this notice: 11/16/1999

Type of Appeal: Case Appeal

Appeal filed by: Alien

NOTICE -- BRIEFING SCHEDULE

- o Enclosed is a copy of the decision of the Immigration Judge.
- o Enclosed is a copy of the transcript of the testimony of record.
- o Appealing party is granted until 12/16/1999 to submit a brief to the Board of Immigration Appeals. The brief must be **RECEIVED** at the Board on or before this date.
- o Opposing party is granted until 1/16/2000 to submit a reply brief to the Board of Immigration Appeals. The brief must be **RECEIVED** at the Board on or before this date.
- o

FILING INSTRUCTIONS -- In General.

IMPORTANT: The Board of Immigration Appeals has included two copies of this notice. Please attach one copy of this notice to the front of your brief when you mail or deliver it to the Board, and keep one for records. Thank you for your cooperation.

Your appeal must be RECEIVED at the Clerk's Office at the Board of Immigration Appeals within the prescribed time limits. It is NOT sufficient simply to mail the appeal and assume your appeal will arrive on time. We strongly urge the use of an overnight courier service to ensure the timely filing of your appeal.

Use of an over-night courier service is strongly encouraged to ensure timely filing.

If the alien is represented by counsel at the appeal level, a Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals (Form EOIR-27) must be filed with the Board.

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
PHILADELPHIA, PENNSYLVANIA

File No.: A 29 734 408

In the Matter of

SHERIF KAMEL SALEH,

Respondent

)
)
)
)

IN REMOVAL PROCEEDINGS

CHARGE:

APPLICATIONS:

ON BEHALF OF RESPONDENT:

Martin Kascavage, Esquire

ON BEHALF OF THE SERVICE:

Tamara Gureghian, Esquire

WRITTEN DECISION OF THE IMMIGRATION JUDGE

On October 6, 1998, the Immigration and Naturalization Service issued Form I-862, Notice to Appear in the name of the respondent, Sherif Saleh, A 29 734 408. In the Notice to Appear it is alleged that the respondent is not a citizen or national of the United States, that he is a native and citizen of Egypt, that he entered the United States on or about June 17, 1984 as a non-immigrant visitor for pleasure, that on June 13, 1990, his status was adjusted to that of a conditional permanent resident and that on August 31, 1992 his status was adjusted to that of a lawful permanent resident, that on February 6, 1998 he was convicted in the United States District Court, Eastern District of

AMB

Pennsylvania for the offense of unlawful possession of a destructive device in violation of Title 26 U.S.C. Section 5861(d). It is further alleged that the respondent is therefore removable from the United States under the provision of law, Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act, in that that any time after admission he has been convicted of an aggravated felony as defined in Section 101(a)(43)(E) of the Act, a law relating to firearm offenses.

At a master calendar appearance the respondent, through counsel admitted the factual allegations 1 through 6 and denied the charge of removability. The respondent's counsel argues that the respondent's conviction does not fall within the definition of a firearm offense as contemplated by Section 5861 of the Internal Revenue Code of 1986.

In evidence are Exhibit 1, the Notice to Appear, Exhibit 2, Government submission of evidence which is a Form I-213, record of deportable alien, and a record of conviction in the underlying matter, which shows that the respondent entered a guilty plea to Title 26 U.S.C. Section 5861(d), unlawful possession of a destructive device on February 6, 1998 and for that offense he was sentenced to a period of 22 months incarceration. Exhibit 3 is a copy of a presentence report and a copy of Title 26 U.S.C. Section 5861. Exhibit 4 is a copy of the definition of firearm at Section 5845 of Title 26. And Exhibit 5 is the respondent's motion to terminate removal proceedings, including a brief by the

AMB

respondent's counsel arguing the merits of their motion to terminate.

The Court finds by evidence that is clear, convincing and unequivocal that the Government has met its burden of establishing removability in this case. Namely, the Court concludes that the conviction for which the respondent plead guilty does fall within the definition of 101(a)(43)(E) of aggravated felony under subsection (3) "Section 5861" of the Internal Revenue Code of 1986 (relating to firearms offenses).

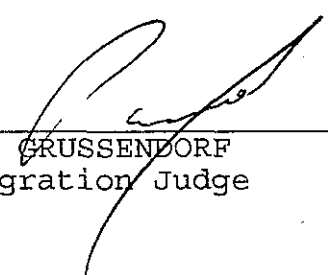
First, the Court notes that the respondent did plead guilty to 5861, subsection (d) of Title 26. Subsection (d) refers to "to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record". Turning to the definition of firearm, Title 26 incorporates its own definition of firearm as the record shows at Exhibit 4, Section 5845, which indicates "for the purpose of the chapter" and then under subheading (a) firearm Section 8, a destructive device.

It appears clear on its face that the law to which the respondent entered a guilty plea, which is namely Title 26 violations of the Internal Revenue Code wherein, it includes its own definition at Section 5845 of a firearm, has encompassed such offenses as that to which the respondent entered a plea of guilty. The Court therefore must find that the respondent is removable as charged. Given that the respondent is an aggravated

AMB

felon he is not entitled to consideration under cancellation of removal or voluntary departure. Given that he is a lawful permanent resident he cannot be considered for a waiver under Section 212(h) of the Act, and he has ^{not} evidenced any fear of return to Egypt or any fear of torture, therefore, the Court must conclude that the respondent is not eligible for any relief from removal and will enter an order of removal in this case to Egypt.

DATED:

10-5-99

PAUL GRUSENDORF
Immigration Judge

U.S. Department of Justice
Executive Office for Immigration Review

Decision Board of Immigration Appeals

Falls Church, Virginia 22041

File: A29 734 408 - Whitedeer

Date:

AUG 11 1999

In re: SHERIF KAMEL SALEH

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Martin A. Kascavage, Esquire
Schoener & Kascavage, P.C.
400 Market Street, Suite 420
Philadelphia, Pennsylvania 19106

CHARGE:

Notice: Sec. 237(a)(2)(A)(iii), I&N Act [8 U.S.C. § 1227(a)(2)(A)(iii)] -
Convicted of aggravated felony

On March 31, 1999, the Immigration Judge found the respondent removable from the United States.¹ The respondent has appealed the Immigration Judge's decision. The request for a waiver of the appeal fee is granted. See 8 C.F.R. § 3.8(c) (1998).

While the Immigration Judge issued an order of removal that indicates it is a summary of an oral decision, that decision is not in the record. The decision of the Immigration Judge may be either oral or written. However, even a transcribed oral decision must include a finding as to deportability, provide the reasons for granting or denying any request, and end with the Immigration Judge's order. In addition, the transcribed oral decision must be separate from the remainder of the transcript. See 8 C.F.R. § 240.12(a) (1999); Matter of A-P, Interim Decision 3375, 12-13 (BIA 1999). In this case, there is no oral decision.

Alternatively, if the Immigration Judge intended this decision to be a summary decision, it would not be proper in this case. A summary decision may only be issued by an Immigration Judge in removal proceedings in lieu of a separate written or transcribed oral decision when the respondent has expressly admitted to both the factual allegations and the charges of removability and, either (1) the respondent's ineligibility for any form of relief is clearly established on the pleadings, or (2) the respondent chooses not to apply for any form of relief for which it appears he/she may be eligible, after being given an appropriate advisement and an opportunity to do so, or (3) the respondent only applies for, and is granted, the relief of voluntary departure.

¹ The Immigration Judge indicated at the March 3, 1999, hearing that the hearing was being reset to March 31, 1999, for preparation of a written decision. See Tr. at 11. However, there is no transcript of any hearing on that date; nor is there a written decision in the record. There is only an Order of the Immigration Judge.

A29 734 408

Otherwise, a full decision is needed to provide the factual and legal basis for the decision. See 8 C.F.R. §§ 240.12(a), (b) (1999);² Matter of A-P-, supra, at 4-11. Because the respondent denied the charge concerning removability, a summary decision is not appropriate in the present case.

As no separate oral decision is in the record, we will remand the record to enable the Immigration Judge to prepare one.

Accordingly, the following order will be entered.

ORDER: The record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion.



FOR THE BOARD

² Summary decisions are allowed only "where inadmissibility or deportability is determined on the pleadings pursuant to § 240.10(b) and the respondent does not make an application under § 240.11, the alien is statutorily ineligible for relief, or the respondent applies for voluntary departure only and the Immigration Judge grants the application" See 8 C.F.R. § 240.12(b).

IMMIGRATION COURT
1600 CALLOWHILL ST. SUITE 400
PHILADELPHIA, PA 19130

In the Matter of

Case No.: A29-734-408

*S-SALEH, SHERIF KAMEL (09/1999)
Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

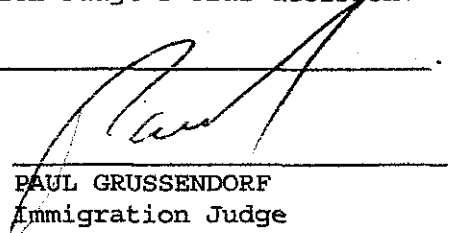
This is a summary of the oral decision entered on 3-31-99.
This memorandum is solely for the convenience of the parties. If the
proceedings should be appealed or reopened, the oral decision will become
the official opinion in the case.

- ☒ The respondent was ordered removed from the United States to EGYPT
or in the alternative to
- ☐ Respondent's application for voluntary departure was denied and
respondent was ordered removed to
alternative to
- ☐ Respondent's application for voluntary departure was granted until
upon posting a bond in the amount of \$ _____
with an alternate order of removal to
- ☐ Respondent's application for asylum was () granted () denied
() withdrawn.
- ☐ Respondent's application for withholding of removal was () granted
() denied () withdrawn.
- ☐ Respondent's application for cancellation of removal under section
240A(a) was () granted () denied () withdrawn.
- ☐ Respondent's application for cancellation of removal was () granted
under section 240A(b)(1) () granted under section 240A(b)(2)
() denied () withdrawn. If granted, it was ordered that the
respondent be issued all appropriate documents necessary to give
effect to this order.
- ☐ Respondent's application for a waiver under section _____ of the INA was
() granted () denied () withdrawn or () other.
- ☐ Respondent's application for adjustment of status under section _____
of the INA was () granted () denied () withdrawn. If granted, it
was ordered that respondent be issued all appropriate documents necessary
to give effect to this order.
- ☐ Respondent's status was rescinded under section 246.
- ☐ Respondent is admitted to the United States as a _____ until _____.
- ☐ As a condition of admission, respondent is to post a \$ _____ bond.
- ☐ Respondent knowingly filed a frivolous asylum application after proper
notice.
- ☐ Respondent was advised of the limitation on discretionary relief for
failure to appear as ordered in the Immigration Judge's oral decision.
- ☐ Proceedings were terminated.
- ☐ Other: _____

Date: _____

Appeal: WAIVED Appeal Due By: _____

4-30-99


PAUL GRUSSENDORF
Immigration Judge

AO 245B (Rev. 8/96) Sheet 1 - Judgment in a C

-ase

12/14

United States District Court

Eastern District of Pennsylvania

UNITED STATES OF AMERICA

v.

SHERIF SALEH

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 2:97CR00343-002

FILED
 0 0 1998
 MICHAEL E. KUNZ, Clerk
 By CMA Dep. Clerk

Anthony E. Stefanski, Esq.

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1.☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
26 U.S.C. § 5861 (d)	Unlawful possession of a destructive device	12/02/1996	1

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 143-88-6466Defendant's Date of Birth: 10/18/1960Defendant's USM No.: 51084-066

Defendant's Residence Address:

P.O. Box 1904Laurel SpringsNJ08021

Defendant's Mailing Address:

P.O. Box 1904Laurel SpringsNJ0802102/06/1998

Date of Imposition of Judgment

Robert F. Kelly
 Signature of Judicial Officer

ROBERT F. KELLY

U.S. DISTRICT JUDGE

Name & Title of Judicial Officer

Feb 6, 1998
 Date

COPIES TO ALL PARTIES

DEFENDANT: SHERIF SALEH
CASE NUMBER: 2:97CR00343-002

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 22 month(s).

- ☐ The court makes the following recommendations to the Bureau of Prisons:
- ☐ The defendant is remanded to the custody of the United States Marshal.
- ☒ The defendant shall surrender to the United States Marshal for this district:
- ☒ at 2:00 p.m. on 02/06/1998.
- ☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ before 2 p.m. on _____.
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By

Deputy U.S. Marshal

DEFENDANT: SHERIF SALEH
CASE NUMBER: 2:97CR00343-002

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 year(s).

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

☒ The defendant shall not possess a firearm as defined in 18 U.S.C. § 921. (Check, if applicable.)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page (if indicated below).

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, other acceptable reasons;
- 6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: SHERIF SALEH
CASE NUMBER: 2:97CR00343-002

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 100.00	\$	\$

☐ If applicable, restitution amount ordered pursuant to plea agreement \$ _____

FINE

The above fine includes costs of incarceration and/or supervision in the amount of \$ _____.

The defendant shall pay interest on any fine of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

RESTITUTION

☐ The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case will be entered after such a determination.

☐ The defendant shall make restitution to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

<u>Name of Payee</u>	<u>* Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>

Totals: \$ _____ \$ _____

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

DEFENDANT: SHERIF SALEH
CASE NUMBER: 2:97CR00343-002

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; interest; (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

- A ☒ in full immediately; or
B ☐ \$ _____ immediately, balance due (in accordance with C, D, or E); or
C ☐ not later than _____; or
D ☐ in installments to commence _____ day(s) after the date of this judgment. In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. probation officer shall pursue collection of the amount due, and shall request the court to establish a payment schedule if appropriate; or
E ☐ in _____ (e.g. equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ year(s) to commence _____ day(s) after the date of this judgment.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

*Special instructions regarding the payment of criminal monetary penalties:

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary payments, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program are to be made as directed by the court, the probation officer, or the United States attorney.

DEFENDANT: SHERIF SALEH

CASE NUMBER: 2:97CR00343-002

STATEMENT OF REASONS

☒ The court adopts the factual findings and guideline application in the presentence report.

OR

☐ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 21

Criminal History Category: I

Imprisonment Range: 37 to 46 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 7,500.00 to \$ 75,000.00

☒ Fine waived or below the guideline range because of inability to pay.

Total Amount of Restitution: \$ _____

☐ Restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims, pursuant to 18 U.S.C. § 3663(d).☐ For offenses committed on or after September 13, 1994 but before April 23, 1996 that require the total amount of loss to be stated, pursuant to Chapters 109A, 110, 110A, and 113A of Title 18, restitution is not ordered because the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of a restitution order in the foreseeable future under any reasonable schedule of payments.☐ Partial restitution is ordered for the following reason(s):☐ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

☒ The sentence departs from the guideline range:☒ upon motion of the government, as a result of defendant's substantial assistance.☐ for the following specific reason(s):

CERTIFICATE OF SERVICE

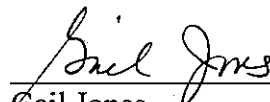
CASE NAME: Sherif Kamel Saleh
CASE NO: A29-734-408

I HEREBY CERTIFY that, on this 19th day of November, 1998, I caused to be served the Notice of Intent to Offer Evidence:

- X by placing a true copy thereof in a sealed envelope, with postage thereon fully prepaid and causing the same to be mailed by first class mail to the person at the address set forth below.
- by causing to be personally served to the person set forth below.
- by FEDERAL EXPRESS: AIRBORNE EXPRESS to the person at the address set forth below.
- by telefaxing with acknowledgment of receipt to the person at the address set forth below.

Martin A. Kascavage, Esq.
Jane M. Schoener, P.C.
400 Market Street
Philadelphia, PA 19106

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 19, 1998.



Gail Jones
Legal Assistant
U.S. Immigration and Naturalization Service
1600 Callowhill Street, Room 530
Philadelphia, PA 19130

U.S. Department of Justice
Immigration and Naturalization Service

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act

File No: A29 734 408

In the Matter of:

Respondent: Sherif Kamel SALEH
 Inmate# 51084-066 PRD: 9/8/99
 LSCI Allenwood PO Box 1000
 White Deer PA 17887 717-547-1990
(Number, street, city, state and ZIP code) (Area code and phone number)

- ☐ 1. You are an arriving alien.
☐ 2. You are an alien present in the United States who has not been admitted or paroled.
☒ 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of Egypt and a citizen of Egypt;
3. You entered the United States at or near New York, New York on or about June 17, 1984 as a nonimmigrant visitor for pleasure.
4. Your status was adjusted to that of a conditional permanent resident on June 13, 1990 at Camden, NJ;
5. Your status was then adjusted to that of a lawful permanent resident on August 31, 1992 at Camden, NJ;
6. You were, on February 6, 1998, convicted in the United States District Court at The Eastern District of Pennsylvania for the offense of Unlawful Possession of a Destructive Device in violation of 26 United States Code, Section 5861(d).

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (Act), as amended, in that, at any time after admission, you have been convicted of an aggravated felony as defined in section 101(a)(43)(E) of the Act, a law relating to firearms offenses.

- ☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution.
☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: 1600 Callowhill Street, Room 400, Philadelphia, PA 19130

on TO BE SET at (Complete Address of Immigration Court, including Room Number, if any) to show why you should not be removed from the United States based on the charge(s) set forth above.
(Date) (Time)

Kathryn A. Jenny / IHP Director
(Signature and Title of Issuing Officer)

Date: OCT 06 1998

Allenwood, PA
(City and State)

See reverse for important information

EXHIBIT - 6

See reverse for important information

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this Notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or deportable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the INS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the INS.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to have a 10-day period prior to appearing before an immigration judge.

(Signature of Respondent)

Before:

Kevin M. Wetzel

(Signature and Title of INS Officer)

Date:

Certificate of Service

This Notice to Appear was served on the respondent by me on 10/6/98, in the following manner and in compliance with section 239(a)(1)(F) of the Act: (Date)

☒ in person ☐ by certified mail, return receipt requested ☐ by regular mail

☒ Attached is a list of organizations and attorneys which provide free legal services.

☒ The alien was provided oral notice in the English language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent if Personally Served)

Kevin M. Wetzel / Agent
(Signature and Title of Officer)

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
YORK, PENNSYLVANIA

RECEIVED
DEPARTMENT OF JUSTICE

2000 JAN 24 P 1:00

MARTIN B. KATZ
130 S EASTON RD.
GLENSIDE PA 19038

IN THE MATTER OF
*S-LE, AHN TRUNG (05/1999)
08440-031

FILE A 27-748-801

DATE: Jan 24, 2000

UNABLE TO FORWARD - NO ADDRESS PROVIDED

X ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE. THIS DECISION IS FINAL UNLESS AN APPEAL IS FILED WITH THE BOARD OF IMMIGRATION APPEALS WITHIN 30 CALENDAR DAYS OF THE DATE OF THE MAILING OF THIS WRITTEN DECISION. SEE THE ENCLOSED FORMS AND INSTRUCTIONS FOR PROPERLY PREPARING YOUR APPEAL. YOUR NOTICE OF APPEAL, ATTACHED DOCUMENTS, AND FEE OR FEE WAIVER REQUEST MUST BE MAILED TO: BOARD OF IMMIGRATION APPEALS
OFFICE OF THE CLERK
P.O. BOX 8530
FALLS CHURCH, VA 22041

ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE AS THE RESULT OF YOUR FAILURE TO APPEAR AT YOUR SCHEDULED DEPORTATION OR REMOVAL HEARING. THIS DECISION IS FINAL UNLESS A MOTION TO REOPEN IS FILED IN ACCORDANCE WITH SECTION 242B(c)(3) OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. SECTION 1252B(c)(3) IN DEPORTATION PROCEEDINGS OR SECTION 240(c)(6), 8 U.S.C. SECTION 1229a(c)(6) IN REMOVAL PROCEEDINGS. IF YOU FILE A MOTION TO REOPEN, YOUR MOTION MUST BE FILED WITH THIS COURT:

IMMIGRATION COURT
3434 CONCORD ROAD
YORK, PA 17402

X OTHER: Appeal due NLT 2/22/00

B
COURT CLERK
IMMIGRATION COURT

CC: DISTRICT COUNSEL, C/O YORK PRISON
3400 CONCORD ROAD
YORK, PA, 17402

SB1

FF

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
YORK, PENNSYLVANIA 17402

IN THE MATTER OF

LE, Ahn Trung

IN REMOVAL PROCEEDINGS

CASE# A 27 748 801

GROUND OF REMOVAL: 212(a)(7)(A)(i)

ON BEHALF OF RESPONDENT

Martin B. Katz, Esq.
130 S. Easton Road,
Glenside, PA 19038

ON BEHALF OF INS

Theodore Murphy
Assistant District Counsel

APPLICATION: U.N. Convention Against Torture

WRITTEN DECISION AND ORDER

The respondent is a 30-year-old married male (common law) alien, native and citizen of Vietnam, who emigrated to the United States in January 1986 as a refugee (Amerasian child), at the age of 16. The respondent adjusted status to lawful permanent resident within two years of his admission as a refugee. The respondent has never met his father, and his mother has submitted an affidavit, of record, detailing her son's birth in Vietnam and whose father was a serviceman during the war. On November 4, 1998, the respondent was served a Notice to Appear, Form I-862, charging him as an aggravated felon under section 237(a)(2)(A)(iii), and also as an alien convicted of a weapons offense, pursuant to section 237(a)(2)(C) of the INA. On March 31, 1999, the Service served upon the respondent an additional charging document, Form I-261, setting forth allegations 6 through 9, which was adjudicated by a prior immigration judge, who found the respondent to have been convicted of an aggravated felony. When the respondent appeared before this court, the two grounds of removal as set forth in the original NTA were dismissed, but which did not disturb the prior finding of aggravated felony against this respondent. Because the respondent's sentence for the conviction set forth in allegation 9 is in excess of 5 years, the respondent is precluded from eligibility for withholding of removal under section 241(b)(3) of the Act, as well as for asylum under section 208 of the Act. The respondent then elected to proceed under Article 3 of the U.N. Convention Against Torture and other

Cruel, Inhuman, Degrading Treatment or Punishment.

To this end the respondent testified that he came to the United States at the age of 16. Prior to that time, he lived in Vietnam with a nanny paid by his mother and attended school until the 10th grade, but in a private school for his own protection; the respondent testified that public schools in Vietnam did not accept the children of American soldiers. Growing up he was routinely harassed by other children due to his American blood, and had stones thrown at him. On one occasion he observed another Amerasian child hit by a stone and dragged away by the police under the ruse of being caught stealing.

According to the respondent, Amerasian children had to avoid the police, who also harassed them and who would arrest them on trumped up charges. One day while returning home from school, he was threatened by two adults, who chased him home, discovering that the two men were policemen. The respondent also related that he occasionally stayed with his mother, but not often since she was known in the town to have fathered a child of a U.S. soldier; thus, it was safer for him to reside with a nanny to minimize harm to him. In this regard, the respondent testified that his mother had been forced into servitude in a "re-education camp" by the government because of her support for the U.S. military. In any event, at age 16 the respondent was able to emigrate to the United States under the Amerasian program, along with his mother. He fears that he has no life in Vietnam, is not considered a true Vietnamese and thus would forever be ostracized by that society, and cannot seek assistance from the Vietnamese government, who did not support him when he lived there as a child, and who would not support him as an adult. The respondent also fears being jailed upon his return and being subjected to torture therein.

Counsel for the respondent maintains that while there is not a lot of evidence to show an absolute certainty that the respondent would be subjected to torture upon his return to Vietnam, counsel argues that that is not the burden which must be met. Counsel has submitted excerpts from the book entitled "Vietnam: The War Comes Home," by Thomas A. Bass (Soho Press, Inc. 1966).¹ Counsel argues that, as the respondent suffered abuses and ostracism in the past as the child of a U.S. soldier, so, too, would he suffer the same fate upon his return. The humiliation, discrimination, and ill-treatment meted out by his government, counsel posits, qualifies as "torture" under Article 3 of the Torture Convention.

Under Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, the United States has agreed not to "expel, return or extradite" a person to another state where he or she would be tortured:

1. No State party shall expel, return (refouler)

¹ The court sincerely appreciates counsel's generous contribution of this book to the court's library, a copy of which was also generously provided to the Service's litigation department here in York.

or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture.

2. For the purposes of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant, or mass violations of human rights.

While there are similarities between Article 3 of the Torture Convention and Article 33 of the 1951 Convention Relating to the Status of Refugees, which the United States has implemented through application of withholding of removal pursuant to section 241(b)(3) of the Immigration and Nationality Act, there are also important differences between the two.

First, there are no exceptions carved out under the Torture Convention to exclude persons who may or must be exempted under Article 33, such as persecutors, those convicted of particularly serious non-political crimes, or terrorists. Second, section 241(b)(3) applies only to those aliens who would face persecution on account of the five grounds set forth at section 101(a)(42)(A) of the INA. Article 3 of the Torture Convention covers all persons who fear torture based on any consideration or basis. Third, torture is not synonymous with "persecution," although there may be an over-lapping of violence which may encompass both actions. Thus, a claim under Article 3 of the Torture Convention is broader in certain aspects, narrower in others, in relation to Article 33 of the 1951 U.N. Convention.

Aliens under removal proceedings under section 240, or under deportation or exclusion proceedings, may make a claim under Article 3, along with any other application, before an immigration court. The Attorney General of the United States has promulgated regulations which the courts must apply when adjudicating claims under the Torture Convention. These regulations are presently set forth at 8 C.F.R. §208.16 *et seq.*, entitled Withholding of removal under section 241(b)(3)(B) of the Act and withholding of removal under the Convention Against Torture. For all practical purposes, an alien making an application for asylum, also considered a tandem application for withholding of removal, should automatically be considered as making an application for relief under the Torture Convention. The regulations provide for the adjudication of such claims, and the framework for such adjudication. The burden of proof is on the alien to establish that "it is more likely than not that he or she would be tortured if removed to the proposed country of removal. The testimony of the applicant, if credible, may be sufficient to sustain the burden of proof without corroboration." 8 C.F.R. § 208.16(c)(2).

In assessing whether it is "more likely than not" that an applicant would be tortured in the proposed country of removal, all evidence relevant to the possibility of future torture shall be considered, including, but not limited to:

- (i) Evidence of past torture inflicted upon the applicant;
- (ii) Evidence that the applicant could relocate to a part of the country of removal where he is not likely to be tortured;
- (iii) Evidence of gross, flagrant or mass violations of human rights within

the country of removal, where applicable; and:
 (Iv) Other relevant information regarding conditions in the country of removal.

8 C.F.R. § 208.16(c)(3).

If an alien expresses a fear of persecution in returning to his or her country of nativity, but if asylum must be pretermitted due to an aggravated felony conviction, or the other bars set forth under section 208(b)(2) of the Act, the judge must first hear testimony on the merits of the claim of persecution and/or torture before determining whether the aggravated felony conviction is a "particularly serious crime." 8 C.F.R. 208.16 (c)(4). If the judge determines that the alien has satisfied his or her burden of proof of establishing more likely than not that torture will occur in the country of removal, the judge must grant the alien withholding of removal under section 241(b)(3) of the Act under the auspices of Article 3 of the Torture Convention, unless the alien is barred from such relief in accordance with section 241(b)(3)(B) of the Act, in which case the judge must pretermit withholding of removal. At that point the regulations require the judge to defer the alien's removal in accordance with 8 C.F.R. § 208.17(a). In the case at bar, the court has considered this case for deferral of removal only, given this court's earlier finding that he is barred from consideration for asylum or withholding of removal.

Further, the regulations provide a definition of "torture" at 8 C.F.R. § 208.18(a), which essentially tracks the definition of the term as set forth under Article 1 of the Torture Convention. It must be stressed that the definition of "torture" is not all encompassing, and it is not to be construed as a definitive list or types of acts which would constitute torture. Rather, the regulations set forth the general parameters under which the judge adjudicates the claim, expressing certain basic elements that must be present before a finding can be made that an act will constitute torture.

"Torture" is defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. 8 C.F.R. § 208.18(a)(1).

Torture is an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman, or degrading treatment or punishment that do not amount to torture. 8 C.F.R. § 208.18(a)(2). Torture does not include pain or suffering arising only from, inherent in, or incidental to lawful sanctions. 8 C.F.R. 208.18(a)(3). Lawful sanctions include judicially imposed sanctions and other law enforcement actions authorized by law, including the death penalty, but do not include sanctions that defeat the object and purpose of the Convention Against Torture to prohibit torture.

Furthermore, in order to constitute torture, an act must be specifically intended to inflict severe physical or mental pain or suffering: an act that results in unanticipated or unintended severity of pain or suffering is not torture. 8 C.F.R. § 208.18(a)(5). Finally, in order to constitute torture, an act must